

## Exhibit 13

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CIVIL ACTION NO: 11-cv-1754 (JLL) (JAD)

- - - - -:  
KIMBERLEE WILLIAMS, et al, :  
:  
Plaintiffs, : DEPOSITION UPON  
:  
vs. : ORAL EXAMINATION  
:  
:  
BASF CATALYSTS, LLC, et al, :  
:  
Defendants. : MICHAEL JAMES  
:  
:  
- - - - -:

West Orange, New Jersey  
Tuesday, April 24, 2018

DEPOSITION of MICHAEL JAMES HASSETT  
in the above-entitled action by and before PATRICIA J.  
RUSSONIELLO, a Certified Court Reporter and Notary  
Public of the State of New Jersey, at the office of  
ARLEO & DONOHUE, LLC, 622 Eagle Rock Avenue,  
commencing at 10:11 a.m.

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1 I N D E X  
2 WITNESS EXAMINATION BY  
3 MICHAEL JAMES HASSETT  
4 By Mr. Jared Placitella 8  
5  
6  
7

E X H I B I T S		
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Hassett-1	Six-page Notice Of Video Deposition Of Michael Hassett, Esq., and attached Certificate of Service	9
Hassett-1A	One-page Interoffice Memorandum 12/23/91 and attached Engelhard Record Retention Manual (BASF_Sampson 39958-39998)	186
Exhibit 1	Multi-page Cahill Collection Of Testing Document (Excluding Privileged Documents) (P-15)	86
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		Eastern Magnesia Company	
		(BASF_Williams 334310-334316)	
	(Reporter retains all exhibits except Exhibit 7.)		

1 REQUEST FOR PRODUCTION OF DOCUMENTS:

2 PAGE LINE

3 66 17 (copies of documents)

4

5

6

7 DIRECTIONS NOT TO ANSWER QUESTIONS:

8 PAGE LINE

9 13 1

13 4

10 47 21

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11 51 2

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12 80 1

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146 13

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1 THE VIDEOGRAPHER: We are now on the  
2 record. This begins videotape number 1 in the  
3 deposition of Michael Hassett in the matter of  
4 Kimberlee Williams, et al, versus BASF Catalysts, LLC,  
5 et al, in the United States District Court for the  
6 District of New Jersey.

7 Today is Tuesday April 24th, 2018 and  
8 the time is 10:11 a.m.

9 This deposition is being taken at 622  
10 Eagle Rock Avenue, West Orange, New Jersey, at the  
11 request of Cohen, Placitella and Roth.

12 The Videographer is Thomas Karwacki of  
13 Magna Legal Services and the court reporter is  
14 Patricia Russoniello of Magna Legal Services.

15 Will counsel and all parties present  
16 state their appearances and whom they represent,  
17 please.

18 MR. JARED PLACITELLA: Sure. I'll  
19 start.

20 Jared Placitella for the plaintiffs.

21 MR. CHRISTOPHER PLACITELLA: Chris  
22 Placitella.

23 MR. DONOHUE: Tim Donohue, Arleo and  
24 Donohue, for the witness, Michael Hassett.

25 MR. BRESS: Dan Bress, Kirkland and



1 Ellis, for BASF.

2 MR. ANGUAS: Ronald Anguas, Kirkland and  
3 Ellis, for BASF.

4 MR. VALE: Anthony Vale for Cahill  
5 Gordon, Peter Sloane and Ira Dembrow.

6 MR. PAVLICK: Phillip Pavlick of Marino,  
7 Tortorella & Boyle for Arthur Dornbusch.

8 MR. TUNIS: Eric Tunis on behalf of  
9 Thomas Halket.

10 THE VIDEOGRAPHER: Will the court  
11 reporter please swear in the witness.

12 M I C H A E L J A M E S H A S S E T T, having been  
13 duly sworn by the Notary, testifies as follows:

14 EXAMINATION BY MR. JARED PLACITELLA:

15 Q. Good morning, Mr. Hassett.

16 A. Good morning.

17 Q. My name is Jared Placitella. It's nice  
18 to meet you.

19 A. Good to meet you.

20 Q. You understand that we're here today for  
21 the purposes of taking your deposition?

22 A. Yes.

23 Q. Have you ever had your deposition taken  
24 before?

25 A. Yes.

1 Q. When was that?

2 A. Probably very late '90s.

3 Q. And what was the circumstances under  
4 which you had your deposition taken?

5 A. It was a case that went to litigation  
6 about an insurance claim by Engelhard against AIG.

7 Q. And do you recall what the insurance  
8 claim was over?

9 A. Yes. It was a loss of -- a loss  
10 relating to base metal inventory held at an Engelhard  
11 subsidiary in Japan.

12 Q. And that was the only time you ever had  
13 your deposition taken before today?

14 A. That's the only one I can remember.

15 Q. Sure.

16 I'm going to show you what I've marked  
17 as Hassett Exhibit 1 for identification; well, Exhibit  
18 Hassett-1. Sorry.

19 Have you ever seen this Notice before  
20 today?

21 A. Yes.

22 Q. And when was the first time that you --  
23 well, when did you see this Notice of your deposition?

24 A. Recently. Within the past five or six  
25 days.

1 Q. Okay. So Exhibit Hassett-1 is the  
2 Notice of your videotape deposition of Michael  
3 Hassett.

4 I want to turn your page -- turn your  
5 attention -- excuse me -- to I guess it's Page 4 where  
6 it says Requested Documents.

7 A. Yes.

8 Q. Do you have any documents that are  
9 responsive to these requests?

10 A. Review them once more.

11 (Pause.)

12 A. No, I do not.

13 Q. Did you look for documents that were  
14 responsive to these requests before today?

15 A. Yes.

16 Q. And when did you do that?

17 A. Shortly after I saw this. Again, maybe  
18 five days ago, four days ago; whatever.

19 Q. Okay. Mr. Hassett, what do you know  
20 about this case?

21 MR. DONOHUE: Object to the form of the  
22 question.

23 A. It's a claim alleging injury due to  
24 exposure to asbestos in talc sold by Engelhard.

25 Q. And when did you first become aware of

1 this case; Williams versus BASF Federal?

2 A. Some time within the past few years --  
3 I -- I don't -- I don't really remember exactly.

4 Q. Do you recall how you became aware of  
5 this case?

6 A. Yes. Attorneys representing BASF  
7 arranged to interview me.

8 Q. And who were those attorneys for BASF?

9 A. Well, I'm not sure exactly when this  
10 case was initiated.

11 Q. Mm'mm.

12 A. But I -- I think that the first  
13 interview after this case was started was actually led  
14 by Dan.

15 Q. And do you recall when that interview  
16 was?

17 A. Wow. Well, again, I'm not sure exactly  
18 when the case started.

19 Q. Mm'mm.

20 A. The -- the first interview with -- with  
21 Dan and his firm was -- it was right after a big  
22 snowstorm that had created a power failure which is  
23 why I remember it. There was no power but that was  
24 probably roughly six years ago maybe.

25 Q. All right. And if I told you that this

1 case was filed in 2011 does that help you place the  
2 time of that -- the time of this meeting?

3 A. Well, I -- yeah. The -- roughly six  
4 would fit with that to some extent.

5 Q. Sure. We have had a lot of snowstorms  
6 up here lately, unfortunately.

7 A. This was a -- this was an October  
8 snowstorm --

9 Q. Oh, October snow --

10 A. -- that created a lot of power line  
11 failures because the trees still had their leaves.

12 Q. Yeah. October snowstorms to April and  
13 March snowstorms we can't get away from.

14 Who else besides Mr. Bress was at this  
15 meeting?

16 A. There was an associate from Kirkland  
17 Ellis whose name I don't remember and I don't think  
18 there was anyone else.

19 Q. Did the attorneys from Kirkland and  
20 Ellis show you any documents at this meeting?

21 A. I don't remember.

22 Q. What was discussed at this meeting?

23 MR. DONOHUE: All right. At this point  
24 I'm going to object on the grounds of attorney-client  
25 privilege. I know Mr. -- I didn't mean to interrupt

1 Mr. Bress, but I'm going to instruct the witness not  
2 to answer that question.

3 MR. BRESS: I'll join. Attorney-client  
4 privilege and instruct you not to answer.

5 MR. JARED PLACITELLA: All right.

6 Q. Do you know the answer to that question,  
7 Mr. Hassett?

8 MR. DONOHUE: You can answer that.

9 A. What was the question again, sir?

10 Q. What was discussed at this meeting six  
11 years ago with Kirkland attorneys?

12 MR. DONOHUE: Just to clarify --

13 MR. JARED PLACITELLA: Mm'mm.

14 Absolutely.

15 MR. DONOHUE: -- you're not to answer  
16 what was discussed but --

17 THE WITNESS: I can --

18 MR. DONOHUE: -- I believe --

19 THE WITNESS: -- answer that.

20 MR. DONOHUE: -- the question is are you  
21 able to answer that if you weren't instructed?

22 A. I -- I have a --

23 MR. DONOHUE: Do you recall what was --

24 A. I have a --

25 MR. DONOHUE: -- discussed?

1           A.       I have a very general recollection of  
2   what was discussed.

3           Q.       What -- did you meet with counsel to  
4   prepare for today's deposition?

5           A.       Yes.

6           Q.       And who did you meet with?

7           A.       It -- well, I met with Tim, Dan, Ronald,  
8   and in an earlier session I think there was one of the  
9   associates from Tim's firm, Gianna, and there was an  
10   associate from Kirkland Ellis, Tia, maybe at one of  
11   the prep sessions.

12          Q.       All right. Let's take this one at a  
13   time.

14                   When -- Mr. Hassett, when was the first  
15   prep session?

16          A.       I'm not sure. It was not that long ago  
17   but...

18          Q.       Okay. And when was the second prep  
19   session?

20                   MR. DONOHUE: Object to the form.

21          A.       I met Monday -- Monday a week ago I  
22   think it was.

23          Q.       And a week ago Monday that was your last  
24   prep session before today's prep session?

25          A.       No. Yesterday was the last prep

1 session.

2 Q. How long did these sessions last?

3 A. Yesterday ran from -- yeah. We really  
4 got started around 10:30 or 10:45 and went to a little  
5 before 3 I think.

6 Q. Mm'mm.

7 A. And the session the preceding Monday  
8 was -- I started at 10 and again I think we -- I think  
9 we ended earlier. We might have ended at 1 or  
10 something like that.

11 Q. During the prep session last Monday on  
12 April 16th were you shown any documents?

13 A. I don't recall any.

14 Q. Okay. And how about yesterday? Were  
15 you shown any documents?

16 A. Yes. Let me think. I'm trying to think  
17 which -- was which day. Give me one second.

18 Yes. Definitely. Yes.

19 Q. And what documents did you review?

20 A. It was a copy of the replies to  
21 Interrogatories in the Chernick case.

22 There was a couple of letters from  
23 outside counsel Engelhard employed that appeared to  
24 transmit information on talc, Engelhard talc, and  
25 there was a copy of Engelhard's old record retention



1 policy.

2 Q. Do you recall which letters from outside  
3 counsel you reviewed?

4 A. Well, one was from a firm that a lawyer  
5 named Mel Bergstein worked for and his name appeared  
6 on the letterhead but I don't remember the firm name.

7 One was from -- or two -- a firm in  
8 Washington County, Pennsylvania, but I can't remember  
9 the names involved.

10 Q. Do you recall any other letters?

11 A. That's all I can remember about the  
12 documents I reviewed yesterday.

13 Q. Besides being with your attorneys did  
14 you -- have you conducted any other investigation into  
15 this case?

16 A. No.

17 Q. Have you reviewed the Second Amended  
18 Complaint?

19 A. No.

20 Q. Have you reviewed the exhibits to the  
21 Second Amended Complaint?

22 A. Not -- it -- not that I know of.

23 Q. Okay. Besides speaking with counsel  
24 have you spoken with anybody else in preparation for  
25 today's deposition?

1 A. No.

2 Q. Mr. Hassett, can you provide us with the  
3 benefit of your education? Where did you go to  
4 undergraduate? Where did you go to law school?

5 A. Undergraduate I -- I went to MIT. Law  
6 School I went to Columbia. And I have a second law  
7 degree, an LLM, from NYU.

8 Q. And when did you receive your law degree  
9 from Columbia?

10 A. 1977.

11 Q. And when did you receive your LLM from  
12 NYU?

13 A. 1984.

14 Q. Are you still licensed to practice law?

15 A. I'm on retired status in both New York  
16 and New Jersey.

17 Q. Besides New York and New Jersey at any  
18 time during your professional career were you licensed  
19 in any other state?

20 A. No.

21 Q. Besides the Courts in the states of New  
22 York and New Jersey were you admitted to practice in  
23 any other Court?

24 A. No.

25 Q. Mr. Hassett, can you take me through

1 your career path following after you graduated law  
2 school, Columbia, in 1977?

3 A. For approximately two years I worked in  
4 the corporate department of a New York City firm,  
5 Breed, Abbott and Morgan, which has merged several  
6 times. It may still be around as a collaboration  
7 with Whitman Ransom. I'm not sure.

8 Then I -- for approximately two years I  
9 worked for a smaller firm in New York City; Spitzer  
10 and Feldman. I first joined -- which was also  
11 basically corporate and real estate deal-type duties.

12 Q. Mm'mm.

13 A. In 1981 I first joined the Engelhard  
14 Industries Legal Department and some time in '84 I  
15 became the Engelhard Corporation Legal Department but  
16 my role didn't real change.

17 Q. Mm'mm.

18 A. Then also in 1984 I joined another  
19 industrial firm, Research-Cottrell, which had its  
20 headquarters in Bedminster, New Jersey, again as a --  
21 you know, sort of a general corporate lawyer.

22 And I think -- it was 1988 I went back  
23 to Engelhard again as a, you know, corporate lawyer in  
24 their corporate department -- their Legal Department  
25 and stayed at Engelhard until -- well, I went off

1 active duty in 2006 and my salary continuation ended  
2 in 2007 I believe.

3 Q. When did you go off active duty in 2006?

4 A. I'm not really sure. It was not too  
5 long after the BASF acquisition.

6 Q. And what do you mean by "active duty"?

7 A. Instead of severance pay Engelhard took  
8 the approach of offering what they call salary  
9 continuation so an employee who was being -- whose  
10 employment was being terminated essentially was able  
11 to stay on the benefit plans but -- the health benefit  
12 plans and receive their base salary until the end of  
13 what you might think of as the severance period.

14 Q. Right.

15 A. They were not expected to report for  
16 work although at least in theory if anyone wanted to  
17 consult with you you were supposed to be available.

18 Q. And during this nonactive period -- I'll  
19 call it that -- did BASF ever consult with you?

20 A. I don't remember a single occasion.

21 Q. Did you take any employment after you  
22 left BASF?

23 A. No employment. I did a couple of  
24 hobby-type things on a freelance basis that weren't  
25 law-related, didn't produce any significant income.

1 Q. So you haven't practiced since 2006,  
2 2007?

3 A. Right.

4 Q. So I want to go back to the beginning of  
5 when you joined the Engelhard Industries Legal  
6 Department in 1981.

7 What areas were you working in in 1981?

8 A. Well, at the time the lawyer's job was  
9 determined by assignment of specific clients, specific  
10 businesses within the larger division so I can't -- I  
11 don't remember exactly what my clients were when I  
12 first -- who my -- which departments were my clients  
13 when I first started but in general I would help them  
14 with negotiating and drafting contracts for deals they  
15 wanted to get into and responding to questions they  
16 had and on a -- on occasion if a lawsuit related to a  
17 specific business unit I was assigned to take the, you  
18 know, lead in getting outside counsel to -- to defend  
19 the suit and coordinating any -- anything involved in  
20 the lawsuit with the outside counsel in the business  
21 unit.

22 Q. If you don't remember the specific  
23 client do you remember the industries that those  
24 clients were serving?

25 A. Well, it -- if you look to that '81-'84

1 period as a whole --

2 Q. Mm'mm.

3 A. -- at different times I think I  
4 represented systems department which made these  
5 cathodic protection systems that were based on  
6 platinum catalysts.

7 Oh, man.

8 I think I -- I represented the Hanovia  
9 liquid gold business based in East Newark at times.  
10 Part of it.

11 You know, I think there were others but  
12 those are the only two I can think of right now.

13 Q. In 1981 to 1984 what was your formal  
14 title?

15 A. I believe I started as assistant counsel  
16 and it may have changed to associate counsel or  
17 something like that. I'm not -- I'm not positive  
18 about those.

19 Q. And from 1981 to 1984 as an assistant or  
20 associate general -- general counsel who did you  
21 report to?

22 A. For most of that period up until '84 I  
23 reported to Ben Campo who was the general counsel of  
24 Engelhard Industries division. When the two  
25 divisional departments consolidated I began to report

1 to Arthur Dornbusch.

2 Q. And do you recall about when in 1984  
3 that consolidation was?

4 A. I don't remember the specific month. I  
5 think it was early in the year.

6 Q. When did you leave Engelhard for the  
7 first time in 1984?

8 A. I don't remember specifically. I think  
9 roughly the middle of '84 maybe.

10 Q. Some time in the summer?

11 A. Pos -- possibly, you know. A couple of  
12 months on either side.

13 Q. And then in 1988 you said you came back  
14 to Engelhard. Is that right?

15 A. Yes.

16 Q. What were the circumstances in which  
17 that occurred?

18 A. Well, why did I change? What --

19 Q. Well, did Engelhard recruit you back?  
20 Did you go back to Engelhard?

21 A. Well, I had stayed in touch with  
22 another -- the Engelhard lawyer named Les Fliegel,  
23 while I was working at Research-Cottrell, and I -- and  
24 I mentioned to Les that thanks to a -- mostly to a  
25 leveraged buy-out my duties had changed at Research-

1 Cottrell and I wasn't as happy with the job as I had  
2 been originally, and he -- recruit would be a little  
3 strong, but he said there might be an opening at  
4 Engelhard if I was interested.

5 He probably had mixed feelings about it.

6 So I -- so I --

7 Q. Fair enough.

8 A. -- saw a chance to make a change I  
9 thought might work out.

10 Q. And when you came back to Engelhard  
11 in -- you said 1988?

12 A. I believe that was '88.

13 Q. Do you recall when in 1988?

14 A. I do not -- no, I don't really remember  
15 the month clearly.

16 Q. What were your responsibilities when you  
17 came back to Engelhard starting in 1988?

18 A. Well, there was still a similar system  
19 where you were assigned to a specific business group  
20 or groups, and I was assigned to the -- I think it was  
21 called the Precious Metals Management Department at  
22 that time. The name changed a few times but it was  
23 essentially the group within the company that both  
24 managed the physical inventories of precious metal and  
25 also ran a trading operation in precious metals.



1 Q. And what business units were your  
2 clients during this time?

3 A. Just -- that was it.

4 Q. Just precious metals?

5 A. Yes. That -- that was a business which  
6 required a fair amount of legal services. It just had  
7 one -- one lawyer.

8 Q. And how long were you working in the  
9 precious metals business unit?

10 A. Well, that -- other units in Engelhard  
11 Industries also worked with precious metals but that  
12 specific trading unit I'll call it I was assigned to  
13 that duty for -- let's see. '88 to -- that seems  
14 long. Wow. '88 to '02? Maybe. I -- I'm not sure.  
15 Something along that year. From -- when I first  
16 rejoined Engelhard until roughly '02.

17 Q. And then from '02 to 0 --

18 A. Maybe 0 -- maybe '01.

19 Q. '01.

20 From 2001 to 2006 which business unit  
21 was your client?

22 A. During that period I was assigned to  
23 support the corporate departments rather than a  
24 business unit.

25 Q. Okay.

1 THE VIDEOGRAPHER: Sir, your microphone  
2 slipped off. Can you put that back?

3 THE WITNESS: Yup. Yup. Sorry.

4 (Pause.)

5 THE WITNESS: Okay?

6 THE VIDEOGRAPHER: Thank you.

7 Q. And what was the corporate department?

8 A. Well, it -- it was departments so that  
9 would be the Treasury, Human Resources, Account --  
10 Accounting or the Controllers Office. The R and D  
11 functions that were done at a corporate level rather  
12 than departmental or business unit level.

13 Q. Right. Now, let's go back to 1988 to  
14 the 2001 time frame.

15 What was your official title?

16 A. Well, I think I started as associate  
17 general counsel and at some point I also became an  
18 assistant secretary but I'm -- I got -- I have no --  
19 no recollection of exactly when.

20 Q. And assistant secretary, do you mean to  
21 the Board?

22 A. Well, as a -- to the corporation. You  
23 know, it's a -- you know, it's a title. Assist...

24 Q. And how about from 2001 to 2006? What  
25 was your official title?

1 A. I think it was the same.

2 Q. Okay. And from 1988 through the  
3 duration of your time at Engelhard in 2006 who did you  
4 report to?

5 A. It was Arthur Dornbusch the entire time.

6 Q. So he knew what you did?

7 MR. BRESS: Objection to form.

8 A. In general, yes.

9 Q. Did you and Mr. Dornbusch have offices  
10 in the same building?

11 A. Throughout that time we did I believe.

12 Q. And was that at the Engelhard  
13 headquarters in Menlo Park?

14 A. Oh, I'm sorry. You know, there's one --  
15 I'm not sure about one date and everything was always  
16 in the Menlo Park area.

17 Q. Mm'mm.

18 A. For a time -- and it may have extended  
19 past 1988 -- there was a separate corporate executive  
20 suite of offices in a separate building and I was not  
21 in that building.

22 Q. Okay.

23 A. Then at some point they sold that  
24 building and the land around it and moved into a tall  
25 building next to the -- what was then the Hilton Hotel

1 on Wood Avenue and from that point on I was in the  
2 same building as Arthur and that -- that's where we  
3 were.

4 Q. And do you recall when Engelhard sold  
5 that other executive building?

6 A. I'm not sure. It might have been after  
7 1988.

8 Q. Late '80s, early '90s?

9 A. I -- I'm not -- I'm really not sure.

10 Q. That's fine.

11 And, Mr. Hassett, did there come a time  
12 when you worked on the Emtal talc litigation?

13 A. Well, from the switch in my duties in  
14 2001 until the -- just after the BASF acquisition.

15 Q. Okay.

16 A. 2 -- '01, late 01; whatever.

17 Q. But before 2001 you never did any work  
18 on the Emtal talc litigation?

19 A. Not that I can recall.

20 Q. Pertaining to the Emtal talc litigation  
21 what were your job responsibilities as assistant  
22 associate general counsel -- well, I should say --  
23 scratch that.

24 From 2001 to 2006 pertaining to the  
25 Emtal talc litigation what were your job

1 responsibilities as associate general counsel,  
2 assistant secretary?

3 A. Well, the assistant secretary function  
4 wasn't related but the --

5 Q. Okay.

6 A. -- for talc complaints in general the  
7 tire workers cases were handled under a mechanism  
8 where I had very limited responsibility. I would see  
9 summary reports of some kind I think once in awhile  
10 but I didn't get involved in seeing or responding to  
11 complaints or anything.

12 For -- the few other talc cases we  
13 learned of a -- you know, if a complaint came into the  
14 company it would reach me and I would retain outside  
15 counsel. You -- usually with advice from Cahill  
16 Gordon on which counsel he'd select and coordinate the  
17 response by the local counsel with information that  
18 Cahill Gordon maintained for us.

19 Q. You're saying you were provided with  
20 status reports of litigation. Who provided you with  
21 those status reports?

22 A. On the tire workers litigation  
23 information came from Cahill Gordon and more  
24 specifically Mike Sullivan generally.

25 Q. Did you receive status reports on any

1 other Emtal talc-related litigation?

2 A. I don't recall any, and on the tire  
3 workers it was a settle -- like a settlement status  
4 reports sort of thing. I -- it wasn't really the  
5 details of the cases.

6 Q. Besides Michael Sullivan who else did  
7 you speak with at Cahill Gordon in the context of  
8 defending the Emtal talc litigation?

9 A. Peter Sloane, for a time Ira Dembrow was  
10 involved for a little bit in Emtal talc and -- I know  
11 it but it won't come -- there's another partner who  
12 was involved in the talc litigation for a time and I  
13 can't think of his name right now.

14 Q. Does Len Spivak sound familiar?

15 A. Yes. Len. Sorry. I know the name  
16 well. It just wouldn't -- wouldn't come to me.

17 Q. Without disclosing specific  
18 communications what were the nature of the  
19 communications you had with personnel from Cahill  
20 Gordon?

21 MR. BRESS: So, Mike, I'm going to -- I  
22 think you can answer the topics generally that you  
23 discussed but I think beyond that we would start  
24 getting into some privileged issues.

25 MR. DONOHUE: Agreed.

1           A.       So one topic was the referrals -- what  
2     outside counsel to refer matters to locally and I --  
3     you know, the system's already sort of up and running.

4                   That's really the only specific thing I  
5     can remember.

6           Q.       What was your understanding of Cahill's  
7     role in defending out Engelhard in the Emtal talc  
8     litigation?

9           A.       Well, my -- they were our national  
10    counsel and I understood that they had a collection of  
11    information relating to Emtal talc that really was the  
12    company's only records left at this point. The -- the  
13    business had been shut down and would -- would provide  
14    that to local counsel as needed to respond to  
15    complaints and they also had a more active role in  
16    managing the tire workers cases and the settlements in  
17    the tire workers cases.

18          Q.       What do you mean by that; they had a  
19    more active role in managing settlements in the tire  
20    workers cases?

21          A.       Well, the -- I don't even remember  
22    seeing Complaints in the tire workers cases. I mean,  
23    I think that they had some arrangement where service  
24    went to either directly to local counsel or -- and  
25    whatever information was exchanged with plaintiffs

1 counsel they did on their own. They didn't -- I  
2 didn't get involved in it.

3 Q. So I believe you said you did have a  
4 role in retaining local defense counsel?

5 A. Yes.

6 Q. What was the role -- what were the  
7 responsibilities of the local defense counsel in  
8 defending the Emtal litigation?

9 A. Well, depended on the nature and status  
10 of the Complaint but local counsel would need to get  
11 the information from Cahill Gordon and transmit it in  
12 whatever form the proceedings required to the  
13 plaintiffs counsel.

14 Q. Besides receiving the information from  
15 Cahill and transmitting it to I guess the plaintiff do  
16 you recall any other job responsibilities that local  
17 defense counsel would have had as opposed to Cahill?

18 A. No.

19 Q. Did you ever interact with the local  
20 defense counsel?

21 A. Yes.

22 Q. Under what circumstances would you  
23 interact with local defense counsel?

24 A. In general the initial engagement.  
25 Anything to do with fees and it -- and I think other



1       than that it was generally reactive.

2               Q.       Reactive mean they reach out to you --

3               A.       If --

4               Q.       -- you answer --

5               A.       If --

6               Q.       -- any inquiries --

7               A.       If they -- exactly. If they -- if they  
8       reached out to me I would respond.

9               Q.       So local counsel had direct access to  
10       Engelhard internal Legal Department?

11              A.       Local -- yes. The local counsel knew  
12       who I was from the initial engagement and could call  
13       me. In some cases they were counsel we had used on  
14       nontalc matters and I knew them already.

15              Q.       Which local defense counsel do you  
16       recall interacting with?

17              A.       Well, I knew Jack Kluznik who was  
18       involved in the tire workers cases but I -- I don't  
19       remember talking with him about anything other than  
20       fees as to business.

21                      I -- I knew him personally from a prior  
22       job, too.

23                      I knew Mel Bergstein's firm from other  
24       litigation and I -- I knew Tony Paduano from other  
25       litigation.

1                   What was -- I'm sorry. What was the  
2 question again?

3           Q.       Which local counsel do you recall  
4 interacting with?

5           A.       I did react with Howard Merten.  
6                   That's all I can think of right now.

7           Q.       I just want to nail down the  
8 jurisdictions that they covered.

9                   So Jack Kluznik covered Ohio?

10          A.       I'm not sure.

11                   Jack -- Jack -- Jack Kluznik was  
12 involved in the tire workers cases and I think his  
13 office was in Ohio but how the response -- I don't  
14 know the details of the tire workers cases.

15          Q.       Okay. How about Mel Bergstein's firm?  
16 What jurisdictions were they responsible for?

17          A.       Well, they -- we didn't have assigned  
18 territories or anything like that. It was  
19 case-by-case.

20                   Mel's office was in New Jersey. He sort  
21 of -- he had actually moved to different firms and  
22 different offices within New Jersey over time. He --  
23 he had done work for Engelhard for years but it wasn't  
24 like he -- he had a specific territory or anything.  
25 We would have sent him a New Jersey case.

1 Q. Right. Besides New Jersey cases do you  
2 recall any other cases that Mel Bergstein's firm would  
3 have -- well, that Mel Bergstein's firm handled?

4 A. Talc cases?

5 Q. Correct.

6 A. No.

7 Q. And I'm sorry. When I talk about your  
8 interactions with your local defense counsel in the  
9 talc cases --

10 A. Yes.

11 Q. -- so would you have interaction with  
12 Mel Bergstein's firm in the context of New Jersey talc  
13 cases?

14 A. I -- I don't really specifically  
15 remember any interaction with Mel's firm on any talc  
16 case.

17 I do remember interactions with Mel in  
18 general but that's several litigations over many  
19 years.

20 Q. One of the letters you looked at in  
21 preparation for today was from Mel Bergstein's --

22 A. Yeah --

23 Q. -- firm, correct?

24 A. -- in fact, without that letter I never  
25 would have remembered he did a talc case.

1 Q. Does that refresh your recollection that  
2 he worked on the talc litigation?

3 A. Yeah.

4 Q. How about Tony Paduano? What -- in what  
5 areas would Engelhard retain him for talc cases?

6 A. Well, as far as I recall Tony -- Tony's  
7 firm --

8 Q. Mm'mm.

9 A. -- handled one talc case.

10 Q. And which case was that?

11 A. The Chernick case.

12 Q. And how about Howard Merten? What  
13 juris -- well, what areas do you recall interacting?

14 A. Howard's firm --

15 Q. What cases?

16 A. -- was in Rhode Island and he -- as far  
17 as I can recall Howard handled just one talc case for  
18 Engelhard and I don't remember working with him on  
19 anything else.

20 Q. And what was that one talc case?

21 A. The Martin case.

22 Q. What was the general division of labor  
23 between Engelhard in-house counsel, Cahill Gordon and  
24 the local defense counsel in defending the Emtal talc  
25 litigation?

1 MR. BRESS: Objection. Form.

2 A. In general I would be the one -- in --  
3 in general with the exception of the tire workers  
4 cases. There weren't that many.

5 I don't -- it's...

6 The Complaint or letter, whatever, would  
7 reach me. I would talk to Cahill about selection of a  
8 local counsel and engage the counsel and explain to  
9 them that Cahill had the relevant records and asked  
10 them to respond -- you know, get in touch with Cahill  
11 for information and respond accordingly, and at that  
12 point my role would become responsive rather than  
13 proactive until the -- the billing.

14 Q. And how about Cahill? What was their  
15 general role after you passed off litigation?

16 A. Well, I wasn't -- I wasn't involved --  
17 when -- local counsel could communicate directly with  
18 Cahill. I -- I was not trying to stay involved in  
19 every discussion so I don't always know the details.

20 Q. And either Cahill or local counsel would  
21 then reach out to you when needed?

22 A. Yes.

23 Q. Can you tell me everybody that you  
24 recall within the Engelhard Legal Department that  
25 worked on the Emtal talc litigation?

1 A. Well --

2 MR. BRESS: Objection to form.

3 A. Les Fliegel had that role before I did  
4 and, you know, Arthur was involved at least as a  
5 supervisor. You know, I don't know about the early  
6 talc cases. I've heard Tom Halket's name in this  
7 introduction. I know he was an Engelhard lawyer but  
8 I -- I don't actually know his involvement in the talc  
9 litigation.

10 And for in-house I don't know of anyone  
11 else.

12 Q. Do you know what Les Fliegel's job  
13 responsibilities were?

14 A. Well, at what point in time? Just in  
15 relation to talc litigation?

16 Q. Relating to talc litigation.

17 A. I would say essentially the same as I  
18 described for myself.

19 Q. And when you were speaking with Les  
20 Fliegel in around 1988 when you were coming back to  
21 Engelhard was he working on the talc litigation at  
22 that time?

23 A. I don't know. I don't remember.

24 Oh, I'm sorry. I do...

25 If he was, he was brand new to it

1 because the duties I took on when I went to Engelhard  
2 were essentially replacing his old duties.

3 He -- he had been working for that  
4 metals trading group.

5 Q. Mm'mm.

6 A. And was shifting out of that and that's  
7 the job that I got assigned to when I went back.

8 Q. Do you recall any other Engelhard  
9 in-house attorneys that worked on the Emtal talc  
10 litigation?

11 A. I do not. Not that I -- there's -- you  
12 know, I don't -- I don't have knowledge of every time  
13 period but I don't know of any others.

14 Q. And from 2001 to 2006 besides yourself  
15 and Arthur Dornbusch do you recall anybody else who's  
16 working on the Em -- any other Engelhard in-house  
17 attorneys that were working on the Emtal talc  
18 litigation?

19 MR. BRESS: Objection to form.

20 A. Well, that could be late -- my start  
21 might have been late in '01 so earlier in '01 it could  
22 have been Les.

23 Q. Okay.

24 A. But other than that I can't think of any  
25 others.

1 Q. Do you know who took over the  
2 responsibility in the Engelhard legal -- in-house  
3 Legal Department of defending the Emtal talc  
4 litigation after your role ended in around 2006-2007?

5 A. Yeah. Not long after the -- BASF  
6 completed its acquisition of Engelhard all product  
7 liability litigation was transferred to an in-house  
8 BASF lawyer who was their products liability  
9 specialist essentially, and I just -- her first name  
10 was Maura. I don't remember her last name.

11 Q. Do you recall any -- which nonattorney  
12 personnel from the Engelhard Legal Department worked  
13 on the Emtal talc litigation?

14 A. From the Legal Department, you know, we  
15 had I think one shared paralegal and shared  
16 assistants.

17 I don't know what -- I'm not sure what  
18 work they would have done on the talc cases honestly.  
19 I don't remember anything specifically.

20 Q. Do you recall their names?

21 A. Well, I can remember the names of my  
22 assistants when there was one or two lawyers per  
23 assistant but by the time we got to thousand, 2001...

24 I can't think of them right now.

25 Q. I'm going to focus in a little bit more



1 now on what your responsibilities were of the  
2 Engelhard in-house lawyers' responsibilities were in  
3 the Emtal talc litigation.

4 So I believe you said you reviewed  
5 Complaints when they were filed against Engelhard. Is  
6 that fair?

7 A. I received them. I didn't necessarily  
8 review them carefully.

9 Q. Did you review Answers to Complaints  
10 that were filed on behalf of Engelhard?

11 A. I don't recall specifically.

12 Q. Okay. Could those Answers have been  
13 served without Engelhard's authorization?

14 MR. BRESS: Objection form.

15 MR. DONOHUE: Join.

16 A. I would be surprised if there wasn't  
17 some form of authorization.

18 These were firms that we -- first, they  
19 were reputable firms. These were firms we had often  
20 worked with over previous cases and if they wanted to  
21 work with us again it would be very surprising.

22 Q. Did you draft letters to opposing  
23 counsel in the Emtal talc litigation?

24 A. No.

25 Q. Did you draft letters to Courts in the

1 Emtal talc litigation?

2 A. No.

3 Q. Did you review any letters to plaintiffs  
4 counsel or Courts before they were transmitted?

5 A. I don't recall.

6 Q. Would Engelhard lawyers have the  
7 authority or authorization to transmit letters to  
8 Courts without the client's authorization?

9 MR. BRESS: Objection. Form.

10 A. Generally I would say not without some  
11 form of authorization. Not necessarily reviewing  
12 specific clearance but some form of authorization.

13 Q. And same question for letters to  
14 opposing counsel. Could Engelhard's lawyers transmit  
15 letters to opposing counsel without some form of  
16 Engelhard authorization?

17 MR. BRESS: Objection. Form. Foundation.

18 A. I would say for the case of a letter, a  
19 cover letter type of thing, the authorization might be  
20 a very general one but there would still be some kind  
21 of authorization.

22 Q. Did you review discovery requests  
23 propounded on behalf of Engelhard?

24 A. Outgoing discovery --

25 Q. Outgoing.

1 A. -- requests in talc cases?

2 Q. Mm'mm.

3 A. I don't remember doing that.

4 Q. Would there need to be some form of  
5 authorization from Engelhard before an Engelhard  
6 attorney representing Engelhard could propound  
7 discovery requests?

8 MR. BRESS: Objection. Form and  
9 foundation.

10 A. You know, I want to go back to what I  
11 said about general authorizations on the letters.

12 I think there's some -- if we engaged  
13 counsel and the routine thing to do was to send out a  
14 relatively standard discovery request I'm not sure  
15 that anything more than the engagement would have been  
16 needed to authorize it.

17 I -- I just -- I don't remember doing  
18 anything on outgoing discovery requests, authorization  
19 or review or anything else.

20 Q. How about incoming discovery requests?  
21 Did you participate in answering discovery requests on  
22 behalf of Engelhard?

23 MR. BRESS: Objection. Form.

24 A. On talc litigation where the -- there  
25 was no new information or files, my participation was

1 limited to steering the local counsel to Cahill Gordon  
2 to get the -- to get the information needed to  
3 respond.

4 Other types of litigation, different  
5 story.

6 Q. So in your role in answering discovery  
7 requests would you talk to any former employees?

8 A. On talc litigation --

9 MR. BRESS: Objection to form.

10 THE WITNESS: Sorry.

11 A. On talc litigation I don't recall  
12 talking to former employees.

13 Q. Did you talk to any current employees in  
14 answering discovery requests in the talc litigation?

15 A. On talc litigation I don't recall  
16 talking to current employees -- then-current  
17 employees.

18 Q. In answering discovery requests on  
19 behalf of Engelhard in the talc litigation would you  
20 review any files?

21 MR. BRESS: Objection. Form.

22 A. On talc litigation I don't recall  
23 reviewing any files.

24 Q. Would you review Answers to discovery  
25 before they were served in the talc litigation?

1 A. I don't recall.

2 Q. Could Answers to discovery requests be  
3 served without Engelhard's authorization?

4 MR. BRESS: Objection. Form. Foundation.

5 MR. DONOHUE: Join.

6 A. I think at least a general authorization  
7 would have been normal.

8 Q. Where did the factual information  
9 contained in the Answers to discovery requests come  
10 from?

11 A. For talc litigation?

12 Q. For talc litigation?

13 A. I believe it came from the records  
14 maintained at Cahill Gordon.

15 Q. And where did Cahill get those records  
16 from?

17 A. I wasn't involved in -- I could -- I  
18 could guess but...

19 Q. They were Engelhard's records, correct?

20 A. Yes.

21 MR. BRESS: Objection.

22 Q. Besides Engelhard's records that were  
23 maintained at Cahill Gordon where else did the factual  
24 information responsive to discovery requests come  
25 from?

1 A. For talc --

2 MR. BRESS: Objection to form.

3 Q. For talc litigation.

4 A. For talc litigation I don't recall any  
5 other source -- I don't recall any other source of  
6 information.

7 Q. Did you ever review transcripts of  
8 depositions taken in the talc litigation?

9 A. I did not.

10 Q. Did you ever attend depositions taken in  
11 the Em -- in the talc litigation?

12 A. I did not.

13 Q. Did you participate or did your office  
14 participate in drafting motions for Summary Judgment  
15 in the talc litigation?

16 MR. BRESS: Objection to form.

17 A. I don't recall drafting or participating  
18 in any talc motion for Summary Judgment.

19 Q. Would you or your office review motions  
20 for Summary Judgment before they were filed in the  
21 talc litigation?

22 MR. BRESS: Objection. Form. Foundation.

23 A. I don't recall participating in drafting  
24 or reviewing any motion for Summary Judgment.

25 Q. Did Engelhard's lawyers have the

1 authority to file motions for a Summary Judgment  
2 without some form of authorization from Engelhard?

3 MR. BRESS: Objection. Form. Foundation.

4 MR. DONOHUE: Join.

5 A. Well, I don't -- if we talk about  
6 litigation in general I would say there would be some  
7 sort of authorization. If we talk just about talc  
8 litigation I don't remember motions for Summary  
9 Judgment so I don't have a procedure to...

10 Q. That's fine.

11 And I wanted to ask one other question  
12 about the status reports you received regarding the  
13 talc litigation.

14 A. On tire worker settlements -- status  
15 reports on tire worker settlements?

16 Q. Mm'mm.

17 A. Is that what we're talking about?

18 Q. Yeah. Is -- is that the only status  
19 reports that you recall?

20 A. Yes.

21 Q. And besides settlement information is  
22 there any other topics covered in the status reports?

23 A. Well --

24 MR. BRESS: Mike, you can answer that I  
25 think at a high level but be careful not to disclose

1 privileged information.

2 A. You know, the reports were -- that I --  
3 I don't remember the -- them well, first of all.

4 Q. Mm'mm.

5 A. They included some quantitative  
6 information on the settlements and they may have  
7 included some --

8 MR. BRESS: Mike, I think this is now  
9 getting to be too detailed so if you want I can talk  
10 to the witness about it but I think this is getting  
11 too deep into the privilege.

12 MR. JARED PLACITELLA: If you want to.  
13 I'm just trying to separate topics but if you need to  
14 talk to a witness --

15 MR. BRESS: So you can talk --

16 MR. JARED PLACITELLA: -- that's no  
17 problem.

18 MR. BRESS: -- about general topics but  
19 I think where we're starting to go is too detailed and  
20 is getting close to revealing privileged information  
21 which I instruct you not to do.

22 A. Well, the -- the general topic of these  
23 reports that I vaguely remember was the -- to -- to  
24 keep the company updated on the status of settlements  
25 in the tire workers litigation and I would add again



1 just as a general -- they did not include details of  
2 any of -- any particular case.

3 Q. Without disclosing specific information  
4 did these status reports have the reasons why cases  
5 were settled?

6 MR. BRESS: I'm going to instruct you  
7 not to answer that, Mike, unless I -- can you read  
8 back the question, again.

9 (Last question read back by the  
10 reporter.)

11 MR. BRESS: Yeah. I think you're  
12 starting to get into the content of the communication  
13 so maybe there's a way to reframe the question.

14 Mike, if you're -- if you're able to  
15 answer that without disclosing privileged information  
16 you can let us know.

17 A. Well, I don't want to decipher myself  
18 what's privileged on this one. We could have a short  
19 conversation outside the room if you want.

20 MR. DONOHUE: Can -- if I might.

21 Can you answer it with a yes or no  
22 question (sic)? Did the communication indicate --

23 THE WITNESS: I -- I -- close enough.

24 A. I can say that I don't recall anything  
25 about reasons for settlement.

1 Q. In the context of the Emtal talc  
2 litigation did you interact with Engelhard's insurance  
3 carriers?

4 A. In general, no. There's one possible  
5 exception.

6 Q. And what's that one possible exception?

7 A. I -- we -- we did look into insurance in  
8 the Martin case and I don't -- I don't remember  
9 whether I interacted directly with the carrier or not  
10 and I'm also not even positive it was Engelhard's  
11 carrier. It might have been the distributor's  
12 carrier.

13 Q. Well, what do you recall about the  
14 nature of those interactions in the context with  
15 insurance carriers in the Martin case?

16 MR. BRESS: Well, are you asking him to  
17 disclose communications with carriers or...

18 MR. JARED PLACITELLA: First, just  
19 topics.

20 MR. BRESS: I need to -- I need to talk  
21 to the witness outside.

22 MR. JARED PLACITELLA: Sure.

23 All right. Take a quick break.

24 THE VIDEOGRAPHER: The time is 11:21  
25 a.m. We're off the record.

1 (At this time the witness and counsel  
2 leave the deposition room at 11:21 a.m.)

3 MR. DONOHUE: Everybody's there on the  
4 phone, right?

5 THE VIDEOGRAPHER: The time is --

6 MR. TUNIS: Yes.

7 THE VIDEOGRAPHER: -- 11:28 a.m. We're  
8 on the record.

9 BY MR. JARED PLACITELLA:

10 Q. So, Mr. Hassett, before we took a short  
11 break I believe my last question was what were the  
12 nature of the interactions that you had with insurance  
13 carriers in the context of the Martin case?

14 MR. BRESS: And I'll instruct you not  
15 to -- go ahead. I think you can give the answer.

16 A. We were inquiring into coverage issues.

17 Q. And what were those coverage issues?

18 MR. BRESS: Well, I don't -- I don't  
19 know if you know the answer to that but -- but I'm  
20 not -- I'm going to ask you and instruct you not to  
21 reveal specific communications.

22 THE WITNESS: Well, first I think to the  
23 extent that I discussed that, it was with the local  
24 counsel and not -- that part of it at least was not  
25 directly with the carrier so that -- does that change

1 your view on the...

2 MR. BRESS: Oh, yes. I do instruct you  
3 not to disclose communications with local counsel on  
4 the basis of privilege.

5 Q. But for the instruction not to answer  
6 would you be able to answer that question?

7 A. Only in an extremely general way.

8 Q. But yes?

9 MR. BRESS: Objection to form.

10 A. I could give a very general answer, yes.

11 Q. In the context of the Emtal talc  
12 litigation did you have any interactions with  
13 insurance brokers?

14 A. No.

15 Q. Did Engelhard set budgets on attorneys  
16 fees and expenses in individual matters?

17 MR. BRESS: Objection. Form.

18 A. In general, no. I don't remember an  
19 exception I was involved in.

20 Q. Do you know approximately how much it  
21 cost Engelhard to defend an Emtal talc case?

22 MR. BRESS: Objection. Form.

23 A. And I -- I don't know there was a  
24 typical case you could answer based on. I don't  
25 really remember much of anything about the fee numbers

1 at this point.

2 Q. Instead of a typical number how about --  
3 let's take two cases.

4 You said the Chernick case.

5 Do you recall how much it cost Engelhard  
6 to defend the Chernick case?

7 A. I don't remember.

8 Q. And do you recall how much it cost  
9 Engelhard to defend the Martin case?

10 A. I do not remember.

11 Q. Did Engelhard keep records of how much  
12 it cost it to defend Emtal talc cases?

13 A. The company in general maintained  
14 records of legal expenses and all expenses. It's, you  
15 know, a big company with good financial statements.

16 I don't recall seeing reports that were  
17 specific to -- specific breakdowns for talc cases  
18 or -- and -- and certainly didn't ask for them.

19 Q. If those records existed who would --  
20 what department in Engelhard would be responsible for  
21 maintaining them?

22 MR. BRESS: Objection. Foundation.

23 THE WITNESS: Answer anyway?

24 MR. DONOHUE: You may answer.

25 A. Well, accounting would have records on

1 expenses generally including legal fees and I don't  
2 know if there would be any supplemental reports  
3 that -- you know, that Arthur saw but I didn't.

4 Q. Have you ever attended any seminars  
5 pertaining to the defense of asbestos or talc cases?

6 A. No.

7 Q. What role did Engelhard's Legal  
8 Department have in deciding whether to settle a talc  
9 case?

10 MR. BRESS: Objection to form.

11 A. In general a settlement would be  
12 approved by the in-house Legal Department.

13 The tire worker cases I just didn't get  
14 involved -- I'm not sure what the approval -- tire  
15 workers were different. Not sure what the approval  
16 process was exactly there.

17 Q. Who in the Engelhard Legal Department  
18 approved settlements? Would that be Arthur Dornbusch?

19 A. In general, yes.

20 Q. I'd like to go back to the tire workers  
21 cases for a minute.

22 Do you recall what tire worker cases,  
23 you know, were within your purview?

24 A. Well, I would -- in theory, all. In  
25 practice, none. I -- I -- I just...

1 Cahill had an effective system set up  
2 and I didn't really do anything that I can recall  
3 other than see these periodic reports we mentioned  
4 earlier, and I think I spoke with Jack Kluznik on a  
5 couple of billing issues, and that's all I can  
6 remember doing personally on the tire worker cases.

7 Q. And so I understand, what do you mean  
8 but -- when you say tire worker cases? What cases --  
9 what realm of cases are encompassed in tire worker  
10 cases?

11 A. Well, there was a -- I don't know it was  
12 a class action.

13 There's a -- there were many cases. I'm  
14 not -- I'm not sure if they were -- some of them were  
15 class actions or just a bunch of individual plaintiff  
16 cases brought in the -- brought in Ohio with -- many  
17 of the plaintiffs were represented by a few law firms  
18 that would appear as plaintiffs counsel in -- in  
19 multiple actions and there were also multiple  
20 defendants and the parties or -- to some extent the  
21 counsel had a -- repetitive relationships and had  
22 formed kind of a settlement procedure is my  
23 understanding.

24 Q. What's your understanding of the  
25 settlement procedure?

1           A.       I don't know that much about it. You  
2 know, I never -- never met or spoke with any of the  
3 plaintiffs counsel. I didn't give any instructions to  
4 Cahill or Mike Sullivan --

5                   MR. BRESS: Mike, just be careful what  
6 your -- I don't want you to --

7                   THE WITNESS: All right.

8           A.       My short answer is that my understanding  
9 is very limited. You pretty -- you pretty much have  
10 heard my understanding.

11           Q.       Who would know about the settlement  
12 procedures in the tire worker litigation?

13           A.       Our -- our reports came from Mike  
14 Sullivan.

15           Q.       All right. And Michael Sullivan was a  
16 paralegal, correct?

17           A.       Yes.

18           Q.       What attorneys would know about the  
19 settlement procedures?

20           A.       Well, I -- I -- I think that at  
21 different times Peter Sloane and Ira and Len would  
22 have been probably technically responsible.

23           Q.       I believe you said that the  
24 authorization to settle a case had to come from  
25 Engelhard, correct?



1 A. I think I said --

2 MR. BRESS: Wait.

3 THE WITNESS: Okay.

4 Q. From Engelhard's Legal Department.

5 A. I think I said --

6 MR. BRESS: Hold on. Hold on.

7 THE WITNESS: Okay.

8 MR. BRESS: Objection to form.

9 A. And I -- I said in general that's true  
10 but the tire worker cases might be something of an  
11 exception.

12 Q. Was -- how about the decision -- I mean  
13 the amount to settle for? Was that also up to  
14 Engelhard in the talc litigation?

15 MR. BRESS: Objection. Form.

16 MR. DONOHUE: Are you separating out  
17 talc litigation versus tire worker --

18 MR. JARED PLACITELLA: Sure.

19 MR. DONOHUE: -- subset?

20 MR. JARED PLACITELLA: We'll ask that  
21 question first.

22 MR. DONOHUE: Okay. So general?

23 MR. JARED PLACITELLA: General, right.

24 MR. BRESS: Objection. Form.

25 A. In talc litigation generally but not

1     tire worker, the decision to seek settlement or  
2     whatever and the amount would be approved by the Legal  
3     Department generally.

4             Q.       And in the tire worker litigation the  
5     decision of the amount to settle for was that -- had  
6     to be authorized by the Legal Department?

7             A.       There's a process there. I'm just not  
8     as familiar with it. I don't know the answer to that.

9             Q.       By "process" do you mean agreements with  
10    other defendants?

11            A.       H'mm.

12                    I don't -- I don't know the answer to  
13    that.

14            Q.       And who would know the answer to that?

15            A.       Well, I think the same group at Cahill  
16    that we mentioned would know for different times.

17            Q.       Mm'mm.

18            A.       I think Arthur would probably know.

19                    MR. JARED PLACITELLA: Could we go off  
20    the record for one second.

21                    THE VIDEOGRAPHER: The time is 11:41 a.m.  
22    Off the record.

23                    (Discussion off the record.)

24                    THE VIDEOGRAPHER: The time is 11:44 a.m.  
25    We're on the record.

1 BY MR. JARED PLACITELLA:

2 Q. So, Mr. Hassett, I'm showing you what's  
3 been marked as Exhibit Hassett-5 for identification.  
4 It is two letters; an August 20, 2002, letter from a  
5 SherryLynn to a Michael Sullivan copying Sam  
6 Martillotta, and if you scroll, the second letter is a  
7 letter from Sherry --

8 THE WITNESS: Would --

9 Q. -- Lynn to Michael --

10 THE WITNESS: Would it be all right if I  
11 worked with a hard copy?

12 MR. BRESS: The hard copy?

13 MR. DONOHUE: Use mine.

14 MR. BRESS: You can -- he can use mine.  
15 Yeah.

16 MR. JARED PLACITELLA: That's fine.

17 (Pause.)

18 A. I skimmed through it at least.

19 Q. Have you ever seen this document before?

20 MR. BRESS: And just so you know -- you  
21 heard this. This is two separate letters that have  
22 been combined together as one exhibit.

23 A. And I don't recall specifically seeing  
24 either one of these letters before although I do note  
25 I'm cc'd on one of them.

1 Q. Would this be one of the settlement  
2 procedures that you were describing in the tire worker  
3 cases?

4 MR. BRESS: Objection to form.

5 A. I would say no.

6 The summaries I was talking about were  
7 prepared for Engelhard as opposed to being a copy of a  
8 letter written to a third party.

9 Q. And do you see that in both letters  
10 there are about 300 cases that are settled for around  
11 a thousand dollars each give or take a few?

12 A. Well, I noticed that in the first letter.

13 The second one seems to be mostly about  
14 trying to make sure the lists aren't duplicates and  
15 whatnot.

16 Q. Right. And you see -- if you turn to  
17 Bates number 39045 it is the second to last page of  
18 the second letter.

19 A. The second to the last page of the whole  
20 package?

21 Q. Mm'mm. Yeah.

22 A. 5-9?

23 Q. Yes.

24 A. Okay. I'm with you.

25 Q. And you see in the first paragraph

1 starting with "Accordingly"?

2 A. Yes.

3 Q. "The above-referenced plaintiffs should  
4 be included in the current settlement which increases  
5 the total amount of 309 or 310,000 including William  
6 Turner"?

7 A. Yes.

8 Q. And if you review the rest of these  
9 documents you see that on average the cases are  
10 settled for a thousand dollars as the settlement  
11 amount either goes up or go down by a thousand  
12 depending on how many people are in the settlement?

13 A. Well, is that --

14 MR. BRESS: Objection to form.

15 A. Yeah. I see -- is -- my understanding  
16 was that that thousand was Engelhard's contribution.

17 Is that -- is that all defendants?

18 Q. Well, I'm reading on the second -- the  
19 paragraph below that. It says, "Please call me  
20 directly" -- sorry. Second to last page.

21 Michael Sullivan saying to SherryLynn of  
22 Bevan and Associates.

23 He says, "Please call me directly if you  
24 have any questions" --

25 A. Right.

1 Q. -- "otherwise" --

2 A. Okay. So that -- all I'm --

3 MR. BRESS: Hold it. Let's -- what's  
4 the question?

5 MR. JARED PLACITELLA: Sure.

6 Q. It says, "I look forward to hearing from  
7 you with respect to the above issues at your  
8 convenience in order to finalize the settlement with  
9 the talc defendants."

10 And then the copy is Talc Defense  
11 Counsel.

12 So would this be a settlement agreement  
13 between Bevan and the talc defense counsel?

14 MR. BRESS: Objection. Form.

15 Q. Or talc defendants?

16 MR. BRESS: Objection. Form.

17 A. Yeah. My answer is pretty simple  
18 anyway. I don't know.

19 Q. Okay. Do you know who the talc defense  
20 counsel were?

21 A. No. All I know is -- all I know about  
22 that is the specific that Cahill Gordon and local  
23 counsel which I guess varied over time were involved  
24 in defending Engelhard. As to counsel or the other  
25 defendants, don't know anything.

1 Q. So do you recall having any interactions  
2 with the talc defense counsel?

3 A. No.

4 Q. Okay. Do you know how it was determined  
5 how much Engelhard was going to pay in this settlement  
6 with talc defendants?

7 A. I do not and I -- you know, I'm not -- I  
8 still am not sure whether that was Engelhard's  
9 contribution or the counsel as a whole honestly from  
10 the --

11 Q. Mm'mm.

12 A. -- letter but my -- my answer is I don't  
13 know.

14 Q. Do you know who would know how -- what  
15 Engelhard paid in a group settlement with talc  
16 defendants?

17 A. Well, I think --

18 THE VIDEOGRAPHER: Fix your microphone,  
19 sir.

20 THE WITNESS: Where'd it go? See if I  
21 can get it on better.

22 (Pause.)

23 MR. BRESS: Can you repeat the question?

24 A. Who would --

25 Q. Sure.

1 A. I'm sorry. Go ahead.

2 Q. Sure.

3 Mr. Hassett, do you know who would know  
4 what Engelhard or how Engelhard determined what it was  
5 going to pay in a group settlement with other talc  
6 defendants?

7 A. No.

8 Q. Would it be Arthur Dornbusch?

9 A. It was -- I think Arthur would be aware  
10 of it in a general way --

11 Q. Mm'mm.

12 A. -- but I'm not sure about the specifics  
13 of anything that -- you know, I'm not sure about the  
14 specifics of any given settlement.

15 Q. Before we leave this document I want to  
16 turn you back to the first letter beginning on the  
17 second page. It looks like it's the attachment. It  
18 says Page 1 of 8 on 447.

19 A. I'm with you.

20 Q. And that goes through Bates 454.

21 A. Okay.

22 Q. Are you aware that the names on these  
23 lists include both plaintiffs that were claiming  
24 mal -- you know, suffering from malignant diseases and  
25 nonmalignant diseases as a result of exposure to Emtal



1 talc?

2 MR. BRESS: Objection. Form. Foundation.

3 A. I don't remember this letter at all and  
4 the first part I'm not sure if I've seen before today.

5 Q. Mm'mm.

6 A. I -- I don't know anything about this  
7 specific group of plaintiffs and the injuries they  
8 allege.

9 Q. Do you know if Engelhard ever  
10 distinguished between malignant and nonmalignant  
11 claims in deciding to settle in group settlements such  
12 as this?

13 MR. BRESS: Objection to form.

14 A. You know, I could surmise that more  
15 severe injury claims would justify a larger settlement  
16 but I don't really know the process. I don't have any  
17 recollection of it. I don't think I knew the details  
18 at the time.

19 Q. Did --

20 MR. JARED PLACITELLA: I think I'm done  
21 with that document.

22 Q. Did Engelhard keep records of the  
23 disposition of each Emtal talc case?

24 MR. BRESS: Objection. Form. Foundation.

25 A. Well, for the tire worker cases I don't

1 know if we had any records at the company other than  
2 whatever reports Mike provided and probably some  
3 accounting and records of payments.

4 For nontire worker talc cases, you know,  
5 you'd have correspondence files like the -- the couple  
6 of letters I saw in my prep yesterday that we  
7 mentioned. They would have gone into a file and  
8 stayed for at least the period in the record retention  
9 policy.

10 To the extent there were any Pleadings  
11 that reached the Legal Department. Same sort of  
12 thing. They would have gone into a file and stayed  
13 around for awhile.

14 Q. Mm'mm.

15 A. But I don't remember the specifics of  
16 the retention policy or the file on the cases I  
17 handled.

18 Q. In general did the records you reviewed  
19 yesterday refresh your recollection?

20 MR. BRESS: Object to the form.

21 A. Okay. So the two cover letter-type  
22 things were unfamiliar to me when I first saw them.

23 Q. Mm'mm.

24 A. After looking at one of them for a  
25 minute I realized it was Mel Bergstein's firm because

1 I saw his name on the letterhead and a little bit of  
2 it came back to me.

3 The other cover letter-type thing I  
4 really didn't have much recollection of even after  
5 seeing the letter.

6 Q. Mm'mm.

7 A. The record retention policy I had an  
8 extremely vague recollection of. I mean, I knew --  
9 certainly I knew clearly that it existed but the  
10 specifics of it I -- I didn't remember.

11 The Chernick Interrogatory responses,  
12 again, I -- I knew it existed. I didn't have a  
13 specific recollection of it without the -- the more  
14 recent look at it.

15 Q. All right.

16 MR. JARED PLACITELLA: Tim, at a break  
17 can we get a copy of those documents? Or Dan?

18 MR. BRESS: They've been provided to  
19 you.

20 MR. JARED PLACITELLA: Can you let me  
21 know what the Bates stamps are? So I know  
22 specifically what he was looking at.

23 I don't know which letter, you know, Mel  
24 Bergstein's firm was so at a break if you could just  
25 pull those up and send those?

1 MR. BRESS: They should be obvious but  
2 we'll look in -- we'll -- we'll think about it.

3 MR. JARED PLACITELLA: Thank you.

4 Q. And the records we were just discussing  
5 about, what cases settled for, you said there were  
6 tire worker records. And there were other records?

7 MR. BRESS: Objection. Form.

8 A. Yes. For nontire worker cases there  
9 would have been in some cases at least correspondence  
10 and in some cases maybe a Pleading.

11 Q. All right. Well, records specifically  
12 what cases settled for, those had to be shared with  
13 your carriers, correct?

14 MR. BRESS: Objection. Form. Foundation.

15 A. That may be true but I was not involved  
16 in making the claim to the carrier and I don't know  
17 how it was documented.

18 Q. Who would have -- well, who would know  
19 that how claims were made to the insurance carrier?

20 A. Well, the company had an insurance  
21 department actually which was a small -- very small --

22 Q. Mm'mm.

23 A. -- group at -- at times as few as one,  
24 but the -- I don't know if they were involved in  
25 making claims on the talc or tire worker cases.

1 I -- I don't know.

2 Q. Did Accounting keep records of case  
3 settlements and amounts --

4 MR. BRESS: Objection.

5 Q. -- in the talc litigation?

6 MR. BRESS: Objection. Form. Foundation.

7 A. My understanding is that accounting had  
8 some kind of record of payments generally for all  
9 purposes, not just legal settlements. Whether they  
10 did a break-out or, you know, a printout or special  
11 break-out on talc case expenses or talc case  
12 settlements, I don't know.

13 Q. Have you ever seen any talc litigation  
14 indexes?

15 MR. BRESS: Objection. Form.

16 A. I don't -- I mean, I know in general  
17 what an index is.

18 Q. Mm'mm.

19 A. I don't remember seeing anything I would  
20 characterize as a -- a talc litigation index.

21 Q. Well, let me ask you a question about  
22 something.

23 MR. DONOHUE: Thank you.

24 MR. JARED PLACITELLA: Sure.

25 Tony?

1 MR. VALE: Thank you.

2 A. All right. So do I need to go through  
3 this?

4 Q. No. I'll --

5 MR. DONOHUE: There's no question  
6 pending.

7 A. Okay.

8 Q. So, Mr. Hassett, in front of you is what  
9 I've marked as Exhibit Hassett-11. It's excerpts from  
10 BASF privilege log in this case that we created, and I  
11 want to direct your attention on Page 5.

12 A. Okay.

13 Q. The first entry, it says privilege,  
14 1210. So 4/12/2002 document. Do you see that?

15 A. The first entry?

16 Q. Yeah.

17 A. 4/12 of '02.

18 Q. Right.

19 A. Yes?

20 Q. And it's from Michael Sullivan to Arthur  
21 Dornbusch, yourself and Peter Sloane. Do you see  
22 that?

23 A. Yes.

24 Q. And it says, "A letter attaching index  
25 containing mental impressions of counsel regarding

1 talc litigations."

2 A. Yes.

3 Q. Do you know what these indexes are of  
4 talc litigations are?

5 MR. BRESS: I think that's just a yes or  
6 no, Mike.

7 A. And I don't remember this at all. I  
8 don't know what this is. Mental -- I don't remember it.

9 Q. Do you recall any other -- any type of  
10 talc indexes?

11 A. No. The only -- the only thing I could  
12 tell you is that I talked earlier about a summary  
13 report kind of thing.

14 Q. Mm'mm.

15 A. It's possible that's the same thing. I  
16 would not think of that as an index personally but...

17 Q. Okay. And I think I asked this but I  
18 want to make sure.

19 Do you recall how often you received  
20 those reports?

21 A. I do not.

22 Q. Based on your experience with the Emtal  
23 talc litigation do you understand that without  
24 evidence that a product contains asbestos a plaintiff  
25 cannot prove a claim alleging asbestos disease from

1 that product?

2 MR. BRESS: Objection.

3 MR. DONOHUE: Object to the form of the  
4 question. You can answer.

5 MR. BRESS: Join.

6 A. Could -- could you repeat that, please?

7 Q. Sure.

8 Based on your experience in the Emtal  
9 talc litigation do you understand that without  
10 evidence that a product contains asbestos that a  
11 plaintiff cannot prove a claim alleging asbestos  
12 disease from that product?

13 MR. BRESS: Object to form.

14 A. Well, I think I may have understood that  
15 as a matter of general rules of causation. I'm not  
16 sure if I learned it in my connection with the  
17 Engelhard talc litigation.

18 Q. But generally you understand that to be  
19 true?

20 MR. BRESS: Objection. Form.

21 MR. DONOHUE: Same objection.

22 A. General -- in most cases at least -- in  
23 almost all cases that would seem to be a correct  
24 statement of the law to me.

25 (Pause.)



1 MR. VALE: Thank you.

2 Q. Mr. Hassett, in front of you is what  
3 I've marked as Exhibit 203 for identification. It's  
4 defendant Arthur Dornbusch's Rule 26 Disclosures in  
5 this action, Williams versus BASF Catalysts.

6 Have you ever seen this document before  
7 the today?

8 A. No. In fact, I might need a primer on  
9 Rule 26.

10 Q. Well --

11 MR. VALE: Probably everybody else.

12 Q. Well, if we take it to the second page  
13 Mr. Dornbusch identifies -- under Section A Mr.  
14 Dornbusch identifies witnesses that may have  
15 discoverable information in this lawsuit.

16 Do you see that?

17 A. Discoverable information. I got it.

18 Q. Right. And I want to turn to the  
19 seventh page.

20 A. Okay.

21 Q. And do you see your name listed, Michael  
22 J. Hassett --

23 A. Yes --

24 Q. -- Esquire?

25 A. -- I do.

1 Q. And it says Potential Areas of Knowledge.  
2 You see the top column?

3 A. Yes.

4 Q. All right. And it says, "Engelhard BASF  
5 legal defenses and actions in various asbestos-related  
6 litigations, tests and/or inspections of the mine in  
7 Johnson, Vermont, asbestos tests and/or studies of  
8 Engelhard's BASF talc and the retention of records and  
9 documents related to Engelhard BASF talc and  
10 asbestos-related litigation."

11 Do you see that?

12 A. Yes.

13 Q. And this is from Arthur Dornbusch.

14 You said before he generally knew what  
15 you did. You reported to him. Is that fair?

16 MR. BRESS: Objection. Form.

17 A. Yes.

18 Q. I want to go through each of these four  
19 categories and we'll take them one at a time.

20 So Mr. Dornbusch says that you have  
21 knowledge about "Engelhard/BASF legal defenses and  
22 actions in various asbestos-related litigations."

23 What do you know about that?

24 A. Well, for talc we were talking about  
25 tire workers as -- and I -- and I think you asked me

1 to describe those cases. I forgot to mention the  
2 plaintiff plaintiffs were, in fact, tire workers to  
3 state the obvious, but for the tire worker cases I  
4 can't really add much to what we've already discussed  
5 probably.

6 For nontire worker talc cases we would  
7 periodically receive a complaint, small -- you know,  
8 over the years I was in that job it might have been  
9 one a year, possibly even less. It wasn't a big part  
10 of the job or -- and -- and I guess a -- you know,  
11 formal -- sometimes I think things might be initiated  
12 with a letter rather than a formal Complaint, and I  
13 was -- well, again, it's the same thing we talked  
14 about earlier.

15 I had to arrange defense -- local  
16 defense counsel which was a referral for Cahill and  
17 try to make sure they had access to the information  
18 that Cahill had collected previously.

19 I'm not -- what else do you want to know  
20 in this first category?

21 Maybe a more specific question would be  
22 helpful. I feel I'm just going to be repeating  
23 everything we've discussed.

24 Q. Sure. Maybe we could follow up on  
25 something we talked about earlier and interactions

1 with local counsel.

2 Did Engelhard provide any kind of  
3 briefing book or materials to local counsel to get  
4 them up to speed on the litigation?

5 MR. BRESS: Objection. Form.

6 A. Not directly.

7 Q. What do you mean by that?

8 A. I understood Cahill had materials. I --  
9 I didn't have them.

10 Q. Do you know what materials Cahill  
11 provided to local counsel?

12 A. I never reviewed the package that are  
13 more recently.

14 Q. You understood it to be a package,  
15 though, of materials?

16 A. Yeah. A pack -- I just used the term  
17 "package," but it wasn't with a -- you know, I don't  
18 knowing if it was a three-ring binder. I really don't  
19 know.

20 Q. Okay. I'm assuming that attorneys from  
21 Cahill may know what they provided?

22 A. I would probably make the same  
23 assumption --

24 Q. Okay.

25 A. -- but...

1 Q. Well, are you aware that in defending  
2 Emtal talc litigations Engelhard's lawyers asserted  
3 that there was no asbestos in Emtal talc?

4 MR. BRESS: Objection. Form.

5 MR. DONOHUE: Yeah. Just to clarify,  
6 you're referring to outside lawyers?

7 MR. JARED PLACITELLA: Outside lawyers.

8 MR. BRESS: Objection. Form.

9 A. My -- my understanding was that the  
10 materials that Cahill had included tests and other  
11 materials that showed Engelhard's -- Engelhard's talc  
12 was harmless, asbestos-free.

13 Q. And do you know where those materials  
14 came from?

15 A. No.

16 Q. Besides those materials do you know what  
17 the factual basis was for that assertion that there  
18 was no asbestos in Emtal talc?

19 MR. BRESS: So to the extent you would  
20 have to divulge privileged information to answer that  
21 question I have to instruct you not to answer.

22 If you can answer that question without  
23 divulging privileged information you can do so.

24 THE WITNESS: I -- well, especially  
25 since I want to use the men's room anyway could we

1 take a short -- a very short break?

2 MR. JARED PLACITELLA: Sure.

3 Absolutely.

4 THE VIDEOGRAPHER: Time is 12:13 p.m.

5 We're off the record.

6 (Recess taken at 12:13 p.m.)

7 THE VIDEOGRAPHER: The time is 12:24 p.m.

8 We're on the record.

9 MR. JARED PLACITELLA: All right. And,  
10 Mr. Hassett, before we took a break I believe I had a  
11 question pending.

12 Pat, can you read it back for us, please.

13 (The following question is read back by  
14 the reporter:

15 "Question: Besides those materials do  
16 you know what the factual basis was for that assertion  
17 that there was no asbestos in Emtal talc?")

18 MR. BRESS: And I will give you the same  
19 instruction which is that you can answer to the extent  
20 you're not revealing privileged information but to the  
21 extent you would reveal privileged information I would  
22 instruct you not to answer.

23 A. I -- I can't provide any answer without --  
24 without including privileged information.

25 MR. JARED PLACITELLA: So, Dan, my

1 question calls for factual basis. Not legal advice or  
2 communications.

3 Is that still your instruction for him  
4 not to answer what the factual basis for the assertion  
5 that there was no asbestos in Emtal talc?

6 MR. BRESS: So he's testified that he  
7 was aware of materials that Cahill had.

8 You asked a question and I told him that  
9 he could answer to the extent that doing so would not  
10 reveal privileged information.

11 I understood his answer to be that he  
12 could not.

13 MR. JARED PLACITELLA: Okay.

14 BY MR. JARED PLACITELLA:

15 Q. So, Mr. Hassett, but for the instruction  
16 not to answer you would be able to tell me besides the  
17 materials that were provided to local counsel what  
18 were the factual basis for the assertion by Engelhard  
19 attorneys that there was no asbestos in Emtal talc --

20 MR. BRESS: Object --

21 Q. -- is that correct?

22 MR. BRESS: Objection to form.

23 MR. DONOHUE: And in order to protect  
24 the privilege I'm just going to instruct him to answer  
25 yes or no to that.

1 MR. JARED PLACITELLA: Yeah.

2 Absolutely.

3 THE WITNESS: I'm -- I'm sorry. Could  
4 you give me the question one more time?

5 MR. JARED PLACITELLA: Sure.

6 Pat, do you -- thanks.

7 (The following question is read back by  
8 the reporter:

9 "Question: So, Mr. Hassett, but for the  
10 instruction not to answer you would be able to tell me  
11 besides the materials that were provided to local  
12 counsel what were the factual basis for the assertion  
13 by Engelhard attorneys that there was no asbestos in  
14 Emtal talc. Is that correct?")

15 MR. BRESS: Do you understand the  
16 question?

17 THE WITNESS: I -- I'm not sure if I do,  
18 honestly.

19 Q. Sure. How about then -- how about just  
20 this then?

21 Can you provide me all factual basis for  
22 the assertion that there is no asbestos in Emtal talc?

23 MR. BRESS: So to the extent you know  
24 the answer to this you can provide it but you -- to  
25 the extent it would require you to reveal privileged



1 communications I would instruct you not to answer.

2 A. I don't think I have any factual basis  
3 other than through privileged communications. I...

4 Q. Okay.

5 MR. JARED PLACITELLA: And it's BASF's  
6 position that the facts contained in those privileged  
7 communications are not disclosable?

8 MR. BRESS: Well, you're not asking  
9 about facts.

10 He's -- he's saying that to answer the  
11 question as you framed it he would have to disclose  
12 privileged information so perhaps there's a different  
13 way of framing the question that wouldn't lead to that  
14 instruction of that answer.

15 MR. JARED PLACITELLA: Sure.

16 Q. Without divulging legal advice or  
17 privileged communications can you give me what the  
18 factual basis is for the assertion that there's no  
19 asbestos in Emtal talc?

20 A. I think the answer to that is no.

21 Q. Okay. Did Engelhard -- did Engelhard  
22 authorize its attorneys to assert there's no asbestos  
23 in Emtal talc?

24 MR. BRESS: Objection to form. I think  
25 that's calling for a privileged communication.

1 Q. That's a yes or no.

2 MR. BRESS: Well, you're asking did  
3 someone authorize. That's asking about the content --

4 Q. Did Engelhard authorize its attorneys to  
5 assert there is no asbestos in Emtal talc?

6 MR. BRESS: I'm going to -- I think that  
7 question calls for you to disclose privileged  
8 communication so I need to instruct you not to answer.

9 Maybe there's a different way to rephrase  
10 it but I don't see how you can answer without --

11 A. Well --

12 MR. BRESS: -- disclosing privileged  
13 communication.

14 MR. DONOHUE: Hold on. He's -- he's  
15 asked you not to answer.

16 THE WITNESS: Yeah. I was trying to  
17 come up with a --

18 MR. DONOHUE: Wait for a question.

19 Q. How about this way?

20 Could Engelhard's attorneys have  
21 asserted to Courts and litigants that there was no  
22 asbestos in Emtal talc without Engelhard's  
23 authorization?

24 MR. DONOHUE: Object to the form.

25 MR. BRESS: Object to the form.

1 MR. DONOHUE: You can answer.

2 A. Well, for the cases I was involved in,  
3 the nontire worker talc cases, the local counsel were  
4 authorized to -- to communicate to plaintiffs counsel  
5 based on what was in the materials at Cahill.

6 Q. And were Cahill -- was Cahill authorized  
7 to provide materials to local counsel purporting to  
8 show that there's no asbestos in Emtal talc without  
9 Engelhard's authorization?

10 MR. BRESS: Objection to form.  
11 Foundation.

12 A. When -- without authorization I -- well,  
13 I -- I would ask the local counsel to get the  
14 materials from Cahill so they -- they had  
15 authorization.

16 Q. You are aware that in defending the  
17 Emtal talc litigation Engelhard lawyers asserted that  
18 there was no evidence of asbestos in Emtal talc,  
19 correct?

20 MR. BRESS: Objection. Form.

21 A. It was my understanding that the local  
22 counsels would assert that there was no -- that the  
23 Engelhard talc was safe and that there was no asbestos  
24 in it.

25 I -- I'm trying to focus on the word

1 "evidence" in your last question, and I don't remember  
2 specifics authorizing or using that phrase.

3 Q. Could Engelhard attorneys assert in  
4 litigation that there was no evidence of asbestos in  
5 Emtal talc without Engelhard's authorization?

6 MR. BRESS: Objection. Form. Foundation.

7 A. In your -- first, the only cases I can  
8 speak to are the -- the few I was involved in.

9 Second, I want to put the tire workers  
10 aside because I wasn't really involved in the  
11 communications between counsel and those cases.

12 In the other talc -- the nontire worker  
13 talc cases, the -- you know, the -- the general thing  
14 that I can recall was -- was a cover letter-type --  
15 you know, a transmittal of these materials that were  
16 coming from Cahill. So that was authorized. That's  
17 what we wanted them to do, but I didn't review the  
18 specifics of the materials so I'm not sure if I can  
19 answer your question fully.

20 Q. Okay. For the tire worker cases is it  
21 fair to say that Engelhard's Legal Department pretty  
22 much outsourced the defense of those cases to Cahill?

23 A. By the time I got involved that was  
24 true. I'm not sure that it's true for the entire  
25 period the company was involved in the tire worker

1 cases.

2 Q. Do you know when that occurred; when  
3 Engelhard outsourced the defense litiga -- of the tire  
4 worker litigation to Cahill?

5 A. No.

6 Q. We'll move on to the second point on  
7 this attached -- of -- sorry. It's Exhibit 203;  
8 Arthur Dornbusch's initial disclosure.

9 It says you have knowledge of the tests  
10 and/or inspections of the mine in Johnson, Vermont.

11 What do you know about tests or  
12 inspections of the mine in Johnson, Vermont?

13 A. I don't know.

14 Q. Did you ever visit the Johnson mine?

15 A. No.

16 Q. Did you ever oversee tests of ore taken  
17 from the Johnson mine?

18 A. No.

19 Q. Do you know why Engelhard closed the  
20 Johnson mine?

21 A. No.

22 Q. Do you know when that was?

23 A. I'm sure it happened before I returned  
24 to Engelhard in '88. I -- I don't know. It might  
25 even have happened before the Legal Departments

1 consolidated in '84 but I'm not sure.

2 Q. Well, let's move on to the next subject  
3 then of Arthur Dornbusch.

4 He says -- Arthur Dornbusch says you  
5 have knowledge of asbestos tests and/or studies of  
6 Engelhard's/BASF's talc.

7 MR. BRESS: Objection. Form.

8 Q. Do you see that?

9 A. Well, I think it says may have  
10 discoverable information but asbestos testing and/or  
11 studies.

12 In preparation for this deposition I  
13 learned that the Cahill package we've been talking  
14 about included some study-type materials but I -- I  
15 still haven't seen them or really don't know much  
16 about them.

17 Q. Mr. Hassett, are you aware that evidence  
18 exists indicating there was asbestos in Emtal talc?

19 MR. BRESS: Objection. Form. Foundation.

20 A. No. I know there's allegations. I  
21 don't know the evidence.

22 Q. Are you aware that testing data exists  
23 concerning the asbestos content of Emtal talc?

24 MR. BRESS: Object to form.

25 A. And, again, the answer is no, I'm not.

1 I've heard of allegations. I haven't seen or heard  
2 the tests.

3 (Pause.)

4 MR. JARED PLACITELLA: Sorry. I only  
5 have two copies here so you guys could share one from  
6 the witness.

7 Tony, can you see this? You know what  
8 this is.

9 Sorry. I only have two copies.

10 THE WITNESS: Should I take the clip off?

11 MR. BRESS: Why don't you wait for him  
12 to --

13 THE WITNESS: Yeah.

14 MR. BRESS: -- ask you questions.

15 Q. Please. Why don't you just -- you can  
16 flip through it. I want to ask you if you've ever  
17 seen this document before?

18 THE WITNESS: Have you seen this?

19 MR. DONOHUE: (Indicates.)

20 You look. I got one here.

21 (Pause.)

22 BY MR. JARED PLACITELLA:

23 Q. Mr. Hassett, while you're flipping  
24 through, for the record I'll say it in front of you is  
25 what's been marked as Exhibit 1 for identification.

1                   It is a Cahill collection of testing  
2 documents excluding privileged documents.

3                   I'll represent to you that this was a  
4 collection of testing documents assembled by Cahill  
5 that was found in the files of Arthur Dornbusch.

6                   I'm not going to ask you about every  
7 single document but I'd like you just to look through  
8 it to see if you have seen this compilation before?

9           A.       Well...

10                   And this is a pretty thick package.

11           Q.       I agree.

12                   MR. DONOHUE: The question is have you  
13 seen that compilation of documents, correct?

14                   MR. JARED PLACITELLA: Yup.

15           A.       Well, no. I mean, I've never seen a  
16 collection like this. I'm about a third of the way  
17 through and I haven't found a single document that  
18 looks familiar. I'll go through the whole thing  
19 somewhat more carefully if you want.

20           Q.       No. We can start and maybe later we'll  
21 come back through it.

22                   Have you ever heard of something called  
23 the Hyde memo before?

24           A.       No.

25           Q.       If Arthur Dornbusch had relevant



1 evidence in his files would you have -- expect that to  
2 share -- would you expect him to share that with you?

3 MR. DONOHUE: Object to the form.

4 MR. BRESS: Object to the form.

5 MR. DONOHUE: You can answer.

6 A. If it was relevant to a specific request  
7 that he was legally obliged to respond to and he had  
8 no, you know, defense of privilege or anything that  
9 would relieve him of that obligation, then I would  
10 expect him to.

11 Q. Maybe over lunch you could go through  
12 the materials but I want to direct you to --

13 A. I'm down to a 20-minute lunch already.  
14 Come on.

15 Q. Sorry. Bagel --

16 A. When do I eat?

17 MR. DONOHUE: You lost your microphone.

18 THE WITNESS: That's okay. That remark  
19 was better off the record.

20 MR. JARED PLACITELLA: Fair. Bagel in  
21 one hand, book in the other.

22 Q. I want to -- I'll direct your attention  
23 to Tab 29. Just point out one of these documents.

24 A. Okay. That was the tabs. All right. I  
25 see. All right. Cool. All right.

1 Q. It begins at Bates stamp 13157? If  
2 you're using the same --

3 A. Yeah. I've got -- yeah. Okay.

4 Q. Tab 29 is a memo from E.J. Triglia to a  
5 G.A. Hemstock dated May 22nd, 1979. Subject: Talc  
6 investigation.

7 Do you see that? The very top.

8 THE WITNESS: All right. Make it  
9 easier.

10 A. Got it. Even -- yeah. Okay.

11 Q. Do you know who G.A. Hemstock is?

12 A. I've heard the name but that's all.

13 Q. Okay. Do you know who an E.J. Triglia  
14 is?

15 A. No.

16 Q. Okay.

17 A. I've heard the name -- I've heard his  
18 name in prep but I -- other than that I know nothing.

19 Q. Well, I'll direct you to the second  
20 paragraph that's highlighted.

21 A. "With the realization."

22 Q. Correct.

23 It says, "With the realization that we  
24 have found fibers in one of our Emtal samples several  
25 more samples of Emtal 42 were submitted to Georgia

1 Tech for assay; one from recent and the other from  
2 earlier 1977 production.

3 "Each sample showed traces of fiber that  
4 were mostly smaller than 5 microns in length.

5 "These same samples were subsequently  
6 sent to two other independent laboratories for  
7 confirmation. Their results were in general agreement  
8 with those reported by the Georgia Institute of  
9 Technology."

10 Do you see that?

11 A. Yup. Yes, I do.

12 Q. Is today the first time that you are  
13 learning that Engelhard and Cahill had evidence that  
14 three separate laboratories had found asbestos in  
15 Emtal talc?

16 MR. DONOHUE: Object to the form.

17 MR. BRESS: Object.

18 MR. DONOHUE: You can answer.

19 MR. BRESS: Objection to form.

20 Misstates the document.

21 A. Well, first, the paragraph we just read  
22 doesn't say there was asbestos but I had not seen this  
23 document and was not aware of it.

24 Q. Okay. Mr. Hassett, you can put that  
25 over to the side. We'll come back to that later.

1 MR. DONOHUE: I'll do it.

2 THE WITNESS: Thank you.

3 Q. Are you aware generally that Engelhard's  
4 scientists found asbestos in Emtal talc?

5 A. No.

6 Q. Are you aware that Engelhard's  
7 scientists testified about the testing of Emtal talc  
8 for asbestos?

9 A. I'm only aware of -- only recently  
10 became aware of allegations to that effect.

11 Q. Sure. Are you aware that Engelhard  
12 scientists testified that there were test results  
13 showing asbestos in Emtal talc?

14 A. No.

15 Q. Okay.

16 (Pause.)

17 (Exhibit 3 marked for identification.)

18 MR. JARED PLACITELLA: One copy.

19 Tim, you're getting excerpts.

20 MR. DONOHUE: Objection. Sorry.

21 Q. Mr. Hassett, in front of you is what's  
22 been marked as Exhibit 3 for identification.

23 If you see on the first page it says  
24 it's a deposition in the District Court for the  
25 District of Rhode Island in the Westfall case.

1 Do you see that up top?

2 A. Yup.

3 Q. And it says it's the continued  
4 deposition of Glenn Hemstock on March 16th, 1983. Do  
5 you see that?

6 A. Yeah.

7 Q. Are you aware that Dr. Hemstock was the  
8 vice-president of research and development for  
9 Engelhard?

10 A. I did not know his title or his job.

11 Q. Did you recall him when you were at  
12 Engelhard?

13 A. No.

14 Q. I'm going to direct your attention to  
15 Bates stamp page 14484 to the highlighted portion and  
16 it says:

17 "Question: Now, you testified that your  
18 department has tested both processed talc and raw talc  
19 ore from the Emtal mine for the presence of chrysotile  
20 asbestos. Is that correct?

21 "Answer: Yes.

22 "Question: Has your department in its  
23 research found chrysotile asbestos in both processed  
24 talc and raw ore from the Emtal mine?

25 "Answer: Yes."

1 Do you see that?

2 A. Yes.

3 Q. Did I read that correctly?

4 A. Yes.

5 Q. Have you ever seen the testimony before  
6 today where Dr. Hemstock testified that his department  
7 found asbestos in both the Johnson mine ore and the  
8 Emtal product?

9 MR. BRESS: Objection. Form.

10 A. I have never seen this testimony or any  
11 other from Glenn Hemstock on any subject including  
12 those.

13 Q. Did -- did you know before today that  
14 Glenn Hemstock ever gave a deposition in the 1980s?

15 A. No.

16 Q. You know what? Before I put this  
17 document down could you please turn to the second  
18 page. You see it says Appearances. These are  
19 appearances of counsel?

20 A. Yes.

21 Q. And on the bottom is -- highlighted is  
22 Cahill, Gordon and Reindel by Howard G. Sloane and  
23 Thomas Halket on behalf of Engelhard Corporation and  
24 Glenn Hemstock.

25 Do you see that?

1 A. Yes.

2 Q. Howard G. Sloane you understand to be  
3 Peter Sloane?

4 A. Yes.

5 Q. Peter Sloane that you interacted with in  
6 defense of the Emtal litigation?

7 A. Yes.

8 Q. And Thomas Halket I believe you said  
9 earlier that that name was familiar to you?

10 A. Yes. Well, we heard it on the  
11 introduction to the call but I did know Thomas. We  
12 briefly overlapped at Engelhard, too.

13 Q. You worked together -- both worked  
14 together for a brief time in the Legal Department at  
15 Engelhard?

16 A. Right. We were both -- yes.

17 (Pause.)

18 (Exhibit 4 marked for identification.)

19 MR. JARED PLACITELLA: This is my  
20 version. I guess I only have my version but it's  
21 okay. Here you go.

22 MR. DONOHUE: For the witness?

23 MR. JARED PLACITELLA: Yup. Here's  
24 excerpts.

25 Q. Mr. Hassett, in front of you what I've

1 marked as Exhibit 4 for identification is a deposition  
2 of Peter N. Gale taken on April 26, 1983 in that same  
3 Westfall case.

4 Do you see that?

5 A. Yes.

6 Q. Did you know that Peter Gale was a  
7 geologist who worked for Engelhard?

8 A. No.

9 Q. I'm going to direct your attention to  
10 Page 21 of the transcript. It's Bates stamped 9732.

11 A. I'm with you.

12 Q. So starting at line 9. If you could  
13 follow along with me.

14 The question is, "As I understand it  
15 you've testified this morning that your first studies  
16 on Johnson, Vermont, talc were done in the fall of  
17 1978 utilizing x-ray diffraction instruments at  
18 Engelhard Laboratories. Is that correct?

19 "Answer: That's correct.

20 "Question: You testified that the  
21 studies revealed the presence of talc, magnesite and  
22 chlorite. Is that correct?

23 "Answer: That's correct.

24 "Question: You testified next as I  
25 understand it the following -- that following that



1 study you performed a further study utilizing scanning  
2 electron microscopy, transmission electron microscopy  
3 and selected -- select area electron defraction at  
4 Georgia Tech laboratories. Is that correct?

5 "Answer: That's correct.

6 "Question: Was that just one study you  
7 performed at Georgia Tech?

8 "Answer: I was at Georgia Tech on a  
9 number of occasions" -- turn to the next page --  
10 "looking at a sam -- number of samples each time.

11 "Question: You testified that your  
12 analysis at Georgia Tech revealed the presence of  
13 fibers and that the fibers were identified by you as  
14 being chrysotile. Is that correct?

15 "Answer: That's correct."

16 Have you ever seen this testimony before  
17 today where Mr. Gale testifies that he tested Johnson,  
18 Vermont, talc at Georgia Tech and found chrysotile  
19 asbestos?

20 A. No.

21 Q. Is today the first time you are ever  
22 seeing the deposition of Peter Gale in the Westfall  
23 case?

24 A. Yes.

25 Q. When was the first time you became aware

1 of the Westfall case?

2 A. I believe it was shortly after I learned  
3 of the Martin case.

4 Q. And under what circumstances in the  
5 context of the Martin case did you learn about the  
6 Westfall case?

7 MR. BRESS: Do you need to speak with us?

8 THE WITNESS: I may need some privilege  
9 guidance, I'm sorry, to...

10 MR. BRESS: Don't have to apol --

11 MR. JARED PLACITELLA: Short break.

12 THE VIDEOGRAPHER: The time is 12:54 p.m.  
13 Off the record.

14 (At this time the witness and counsel  
15 leave the deposition room at 12:54 p.m.)

16 THE VIDEOGRAPHER: The time is 1 p.m.  
17 We're on the record.

18 MR. JARED PLACITELLA: Pat, can we have  
19 that last question read back? Thank you.

20 (The following question is read back by  
21 the reporter:

22 "Question: And under what circumstances  
23 in the context of the Martin case did you learn about  
24 the Westfall case?")

25 A. Plaintiffs or their counsel raised some

1     allegations that referred back to the Westfall case  
2     and anything else I could say about this would be  
3     subject to attorney-client privilege.

4             Q.       Without getting into specific  
5     communications who did you communicate with about the  
6     Westfall case in the context of the Martin case?

7             A.       In the context of?

8             Q.       The Martin case?

9             A.       Well, I -- I -- who did I communicate  
10    about the Westfall case?

11            Q.       Right.

12                   MR. DONOHUE: Who did you communicate  
13    with?

14            A.       Arthur and Howard Merten.

15                   That's all I can specifically remember.

16            Q.       What were the allegations of the  
17    plaintiffs counsel that you're referring to?

18                   Sorry. In your previous answer you said  
19    there was allegations made by the plaintiffs counsel  
20    in the Martin case that referred to the Westfall case.

21                   What were those allegations?

22            A.       I don't -- I don't think I can go into  
23    that without running into the same privilege issue.

24            Q.       Okay. I'm not asking what, you know,  
25    Arthur Dornbusch, Cahill or anybody else told you, but

1 what's your understanding of the allegations raised by  
2 the plaintiff counsel?

3 A. But my understanding even -- even the  
4 allegations themselves all came through Howard Merten  
5 so I don't -- I don't have a --

6 MR. DONOHUE: Can you say generally what  
7 the allegations were?

8 MR. BRESS: Do you -- maybe you could  
9 ask if he knows the answer to the question you're  
10 asking?

11 A. I do know some -- some -- at least one  
12 item that would be responsive.

13 MR. BRESS: Can I find out?

14 MR. JARED PLACITELLA: Sure.

15 MR. BRESS: Trying to help you  
16 guys here.

17 MR. JARED PLACITELLA: Sure. Why  
18 don't -- do we have to go off the record or...

19 MR. BRESS: Well, yeah. Go off just so  
20 the tape's not running.

21 MR. JARED PLACITELLA: Sure.

22 THE VIDEOGRAPHER: Our time is 1:03 p.m.  
23 Off the record.

24 (At this time the witness and counsel  
25 leave the deposition room at 1:03 p.m.)

1 THE WITNESS: Okay.

2 THE VIDEOGRAPHER: The time is 1:04 p.m.  
3 On the record.

4 BY MR. JARED PLACITELLA:

5 Q. Okay. Mr. Hassett, before we broke I  
6 believe the question I raised to you was what is your  
7 understanding of the allegations raised by the  
8 plaintiffs counsel relating to the Westfall case in  
9 the context of the Martin case?

10 A. My understanding was that plaintiffs  
11 were alleging they had an expert with some kind of  
12 ties to the Westfall case who was prepared to offer  
13 some sort of evidence of asbestos content in the  
14 Engelhard -- in the Emtal talc.

15 Q. And was this the first time that you --  
16 you heard of evidence that someone had -- that  
17 Engelhard's Emtal talc contained asbestos?

18 MR. BRESS: Objection to form.

19 A. All I heard was an allegation and this  
20 was the -- the first specific allegation of that kind.

21 Q. Okay. There is one more area that Mr.  
22 Dornbusch discusses in his disclosures. Maybe we  
23 could go through that and then take a lunch break --

24 MR. DONOHUE: Sure.

25 Q. -- if that's okay. Figured that would

1 be a clean break.

2 So if we turn back to Exhibit 203,  
3 please.

4 THE WITNESS: Thanks.

5 Q. The fourth area that Mr. Dornbusch  
6 believes you have knowledge of is the retention of  
7 records and documents related to Engelhard's BASF --  
8 Engelhard/BASF talc and asbestos-related litigation.  
9 Do you see that?

10 A. Yup --

11 Q. What do --

12 A. -- I do.

13 Q. What do you recall about that?

14 MR. BRESS: Objection. Form.

15 A. Well, I don't have anything to add to  
16 what we discussed earlier about files on the specific  
17 cases --

18 Q. Mm'mm.

19 A. -- I was involved in, and there -- you  
20 know, the only other thing I -- I can think of that  
21 would be responsive here is the company had a general  
22 policy on retaining records and it included the  
23 requirement to the maintain litigation records for a  
24 certain period of time and then destroy them at the  
25 end of that period and, of course, everybody

1 understood there was a -- you know, for pending  
2 litigation had to preserve records.

3 Q. Mm'mm.

4 A. But none of that was talc-specific. It  
5 was just general like the other types of records.

6 Q. And in particular to the Emtal talc  
7 litigation was it Engelhard's position that once a  
8 case concluded that litigation files pertained to that  
9 case could be destroyed?

10 MR. BRESS: Objection. Form. Foundation.  
11 I think you're also asking him for work product and  
12 mental impression.

13 MR. JARED PLACITELLA: I'm asking for  
14 the general policy.

15 MR. BRESS: Well, I don't -- I don't --  
16 I don't know that you've established that he knows the  
17 answer to that question but the way the question was  
18 phrased I think called for him to offer you what is  
19 essentially a legal conclusion on behalf of the  
20 company so maybe there's a different way to rephrase  
21 it.

22 MR. JARED PLACITELLA: Sure.

23 Q. Was it Engelhard's policy that  
24 litigation records pertaining to a talc litigation  
25 could be destroyed after that particular case

1 concluded?

2 MR. BRESS: Objection. Form. Foundation.

3 THE WITNESS: Should I answer?

4 MR. DONOHUE: You could answer.

5 A. First, there was no -- a no policy of  
6 any kind specific to talc litigation.

7 Q. Okay.

8 A. There were policies applicable to  
9 litigation generally and they did allow -- you know,  
10 they had both preservation and then permitted  
11 destruction but the understanding that -- that you  
12 needed to preserve documents for any open claim would  
13 override the permitted destruction.

14 Q. Was it Engelhard's policy that following  
15 the conclusion of a specific litigation that doc --  
16 litigation documents pertaining to that litigation  
17 could be discarded?

18 MR. BRESS: Objection. Form. Foundation.

19 A. I -- yeah. I'm not -- I'm not sure I  
20 fully understand the question.

21 The policy had a -- a preservation  
22 period and then at the end of that, you know,  
23 destruction.

24 Q. That preservation period would be at  
25 least until the end of the litigation. Is that fair?



1 MR. BRESS: Objection to form.

2 A. Yeah. I -- I believe it was for a  
3 period after that but I -- I don't really remember the  
4 specifics of the retention policy.

5 Q. Okay. And when you said in your prep I  
6 believe that you reviewed an Engelhard record  
7 retention policy. Is that fair?

8 A. Yeah. Reviewed the way I reviewed the --  
9 the 50 -- 50-page thing.

10 I saw it was there.

11 Q. Okay. What was the date of this record  
12 retention policy?

13 A. I don't remember.

14 Q. Okay. When do you recall a record  
15 retention policy at Engelhard first being implemented?

16 A. I don't remember.

17 Q. Okay. Do you recall at whose direction  
18 a record retention policy was initiated?

19 A. You know, I don't -- I just don't  
20 remember anything about the initiation of the policy.  
21 It might even have occurred when I wasn't -- before I  
22 started at Engelhard.

23 MR. JARED PLACITELLA: You know what?  
24 Let me show you one document before we take a break.

25 (Pause.)

1 A. Okay.

2 Q. In front of you, Mr. Hassett, is what's  
3 been marked as Exhibit 15 for identification. It's a  
4 memoranda from a G.A. Hemstock to all R and D  
5 personnel dated March 7, 1984. Subject: Document  
6 Retrieval Discontinued Operations.

7 Do you see that?

8 A. Yes.

9 Q. Have you ever seen this document before?

10 A. No.

11 Q. Okay. Were you still at Engelhard when  
12 this document was issued?

13 A. Poss -- I'm not sure.

14 Q. Okay. And it says, "It is the policy of  
15 Engelhard Corporation to avoid the undue accumulation  
16 of documents that are no longer likely to be needed in  
17 our business operation. The regular discarding of  
18 outdated business records," and it goes on further --  
19 three more lines.

20 Do you see that?

21 A. Yes.

22 Q. Okay. And it talks about -- at the end  
23 of that paragraph it says -- pertains to the  
24 "following discontinued operations," and Emtal is  
25 listed.

1 A. Yes.

2 Q. All right. The first paragraph of -- I  
3 mean, the first sentence of the second paragraph below  
4 says, "All information contained in your files  
5 pertaining to these operations should be withdrawn and  
6 placed in files for discard."

7 Do you see that?

8 A. For discard -- yes. I see the whole  
9 thing, yes.

10 Q. Okay. And at the very bottom, the last  
11 sentence says, "Please understand that it is our  
12 intent to retain copies of those documents to be  
13 preserved from discontinued operations only in our  
14 central files and can be accessed there should the  
15 need arise."

16 Do you see that?

17 A. Yes.

18 Q. When you were working at Engelhard in  
19 the early 1980s were you aware of a document retention  
20 policy specifically for discontinued operations?

21 A. I -- I don't remember.

22 Q. Okay. Do you -- are you aware of any  
23 Emtal-related documents that were collected pursuant  
24 to this memo?

25 A. No.

1 Q. Do you know who would have been in  
2 charge of collecting such documents?

3 A. No. I mean, other than what's on the  
4 face of the memo.

5 Q. Would it surprise you if the memo was  
6 drafted by the Legal Department?

7 A. No.

8 MR. BRESS: Objection. Form.

9 A. No.

10 Q. Do you know what documents pertaining to  
11 Emtal were discarded pursuant to this memo?

12 MR. BRESS: Objection to form.

13 A. No.

14 Q. And do you know who would have discarded  
15 documents related to Emtal pursuant to this memo?

16 A. No.

17 Q. Are you aware of any document retention  
18 policies before this one in Exhibit 15?

19 A. Before this memo that --

20 Q. Yeah.

21 A. -- we're looking at right now?

22 No, I don't remember when the policy was  
23 initiated.

24 Q. Okay. In the document retention policy  
25 that you reviewed did the Legal Department have any

1 role in drafting that policy?

2 A. Yes.

3 Q. Do you know who had a role in drafting  
4 that policy within the Legal Department?

5 A. I don't -- I think that Al McWilliams  
6 who was the in-house lawyer who was the -- the sort  
7 of -- the guy to go to on records retention questions  
8 for the business departments would occasionally change  
9 it to accommodate changes in the law or new  
10 developments in records or whatever.

11 Q. Do you know -- have you spoken with Al  
12 McWilliams in any recent time?

13 A. Al McWilliams passed away several years  
14 ago.

15 Q. Do you recall anybody else in the Legal  
16 Department who would have input in what should be  
17 included in an Engelhard's document retention policy?

18 A. I -- no.

19 Q. Two more questions before lunch.

20 Was it Engelhard's policy to retain  
21 documents pertaining to a certain business unit if  
22 litigation was pending?

23 MR. BRESS: Objection. Form.

24 A. Well, certainly our policy and practice  
25 in -- maintain documents relating to a pending

1 litigation, how -- how far -- you know, relating  
2 didn't necessarily include all documents for a  
3 business unit.

4 Q. Turning back to Exhibit 15. You see  
5 that it's to all R and D personnel, and one of the  
6 business units that's listed is Emtal, correct?

7 A. Okay.

8 Q. If there was litigation pending  
9 pertaining to Emtal was it Engelhard's retention --  
10 was it Engelhard's policy to retain documents in the R  
11 and D Department?

12 MR. DONOHUE: Object to the form.

13 MR. BRESS: Objection to form.  
14 Foundation.

15 A. And I think that when it came to  
16 retention for pending claims or known claims the scope  
17 of the claim was -- you can't answer that question  
18 without understanding the scope of the claim.

19 I don't -- I don't really know the  
20 details of the scope of Emtal's business.

21 Q. But -- well, I'm just -- you understand  
22 then in a general Emtal talc case the allegation is  
23 that Emtal talc, you know, causes asbestos disease.  
24 Is that fair?

25 A. I understand that's alleged.

1 Q. Right. That's alleged.

2 So when those types of cases -- if that --  
3 if that case is pending was it Engelhard's policy to  
4 retain R and D documents relating to Emtal?

5 MR. BRESS: Object to the form.

6 MR. DONOHUE: Object to the form.

7 MR. BRESS: Foundation.

8 A. Well, I mean, I don't know when, what  
9 case was pending or open. I don't know what -- was  
10 the research about a great potential new use for talc  
11 that had nothing to do with asbestos cases?

12 I don't know.

13 I mean, the scope of the retention for  
14 pending claims depends on the scope of the claims and  
15 the scope of the records.

16 Q. So --

17 A. You're ask -- you're asking me to make  
18 up all this stuff and I feel like I -- I don't know  
19 anything about.

20 Q. That's fair. That's fair.

21 If the Emtal talc claim alleges injury --  
22 well -- alleges asbestos injury from Emtal talc --

23 A. Right?

24 Q. -- was it Engelhard's policy to retain R  
25 and D documents relating to asbestos and Emtal?

1 MR. BRESS: Objection.

2 MR. DONOHUE: Object to the form.

3 MR. BRESS: Objection to form.

4 Q. I --

5 MR. BRESS: Asked and answered.

6 A. And I don't -- the -- the policy  
7 specifics relating to Emtal I was not involved in. I  
8 don't know the policy.

9 The specifics relating to Emtal I was  
10 not involved in and don't know.

11 The knowledge I have of Engelhard's  
12 retention policy and its practice on pending claims  
13 I've already tried to describe as best I can.

14 Q. Would you have expected working in the  
15 in-house Legal Department at Engelhard that if cases --  
16 Emtal cases pertaining to asbestos -- alleging asbestos  
17 exposure were pending that R and D documents involving  
18 Emtal and asbestos would be retained?

19 MR. BRESS: Objection to form.

20 MR. DONOHUE: Objection to form.

21 MR. BRESS: Objection to form.

22 Hold on a second, Mike.

23 I think you're essentially asking him  
24 for a legal judgment here so perhaps there's a way to  
25 rephrase this without inviting a work product



1 objection.

2 MR. JARED PLACITELLA: It's kind of the  
3 pattern and process in the Legal Department. I'm not  
4 asking for his work product.

5 MR. BRESS: Well, you asked him if he  
6 would expect something. That's a little bit  
7 different.

8 MR. JARED PLACITELLA: Sure. Let me try  
9 it this way.

10 Q. Was it the pattern or practice of the  
11 Legal Department to retain R and D -- Emtal R and D  
12 documents that discussed asbestos if there were --  
13 Emtal claims pending alleging injury from asbestos?

14 MR. BRESS: Objection. Form. Foundation.

15 A. Well, I -- I think I've already said  
16 our -- our practice was not to destroy documents  
17 relating to a pending claim.

18 Q. Okay.

19 A. Without knowing the claim and without  
20 knowing what happened to these documents that were to  
21 be preserved I -- I just don't know how this -- I  
22 don't know the claim. I don't know the -- the scope  
23 of what was actually supposed to be destroyed versus  
24 retained.

25 Q. I've got one question and I'll try and

1 word it in an artfully way around the same context.

2 If litigation was reasonably foreseeable  
3 involving allegations of injury -- asbestos injury  
4 from Emtal talc was it the pattern and practice of the  
5 Legal Department to retain R and D documents of Emtal  
6 and asbestos?

7 MR. BRESS: Objection. Form. Foundation.

8 A. And --

9 MR. BRESS: Calls for a legal conclusion.

10 A. Yeah. The specifics of how the -- I  
11 don't even know if the regular policy existed in '84  
12 and I don't know if I was working at Engelhard at this  
13 time.

14 Q. Mm'mm.

15 A. And how pending claims and relevant  
16 documents would have been assessed I -- I'd just be  
17 guessing. I...

18 MR. JARED PLACITELLA: Okay. Well,  
19 let's break for lunch.

20 THE VIDEOGRAPHER: The time is 1:23 p.m.  
21 Off the record.

22 (Luncheon recess taken at 1:23 p.m.)

23 AFTERNOON SESSION

24 THE VIDEOGRAPHER: Time is 2:03 p.m.  
25 We're on the record.

1 BY MR. JARED PLACITELLA:

2 Q. All right. Mr. Hassett, we are back  
3 after lunch.

4 I want to show you next what's been  
5 marked as Exhibit 57 for identification.

6 MR. VALE: Thank you.

7 MR. JARED PLACITELLA: Sure.

8 THE WITNESS: Wait. All -- all the  
9 other lawyers are telling me I'm not allowed to take  
10 anything.

11 Q. Mr. Hassett, what's in front of you is  
12 what's been marked as Exhibit 57 for identification.  
13 These are responses by Engelhard Corporation to  
14 Plaintiff's First Set -- First Standard Set of  
15 Liability Interrogatories in the Chernick case and  
16 they are dated April 16th, 2002 if you look at the  
17 last -- the second -- the last and second to last  
18 pages.

19 A. Okay. I do -- I do see the two dates,  
20 yes.

21 Q. Have you ever seen these responses  
22 before today?

23 A. Yes.

24 Q. Were these the responses that were  
25 presented to you yesterday?

1           A.       At least the significant portion of it.  
2       I'm not sure if I had the whole thing yesterday.

3           Q.       I'd like to go through these with you.

4                    If you turn to the second page and the  
5       response to Interrogatory 1.

6                    It says, "State the full name, address,  
7       telephone number, position of the corporate officer  
8       answering these Interrogatories."

9                    And response, "Michael J. Hassett,  
10       Esquire, Associate General Counsel for Engelhard  
11       Corporation, coordinated Engelhard's responses to the  
12       second set."

13                   Do you see that?

14           A.       Yes.

15           Q.       Michael J. Hassett. That's you?

16           A.       Yes.

17           Q.       What does it mean to coordinate  
18       Engelhard's responses?

19           A.       In this particular case --

20           Q.       Mm'mm.

21           A.       -- it meant -- before we responded we  
22       had retained the firm of Paduano and Weintraub as  
23       counsel, and I asked them to work with Cahill to get  
24       whatever information they needed to reply and that was  
25       pretty much the extent of my coordination in a -- in

1 this case.

2 Q. Did you have any personal knowledge when  
3 answering these Interrogatories?

4 MR. BRESS: Objection. Form.

5 A. I did not.

6 Q. So coordinates generally means that you  
7 were the funnel of the information. Is that fair?  
8 And -- that your local counsel and Cahill would work  
9 together and give you the information that was needed --

10 A. No.

11 Q. -- for these Interrogatories?

12 A. That -- that is not --

13 MR. BRESS: Objection to form.

14 A. -- correct.

15 Q. Then please explain it to me.

16 A. They were able to work directly with one  
17 another. I wasn't necessarily a funnel or in the  
18 middle of that communication.

19 Q. So coordinates means you just put them  
20 in touch and they responded to the Interrogatories?

21 A. In this case, yes.

22 Q. In this case.

23 And did you review the answers before  
24 they were verified and served?

25 A. I don't recall reviewing these specific

1     Answers in this particular case.

2             Q.       Why was it decided that you'd be the one  
3     to coordinate the Interrog -- coordinate the responses  
4     to the Interrogatories?

5             A.       I don't remember.

6             Q.       Do you recall who tasked you with the  
7     assignment to coordinate the Interrogatories?

8             MR. BRESS: Objection.

9             Q.       These Interrogatories?

10            MR. BRESS: Objection. Form.

11            A.       In -- and I do not remember the answer --  
12     I don't know the answer to that question.

13            Q.       Sure.

14            A.       I don't recall.

15            Q.       I want you to turn your attention to the  
16     last page, please.

17            A.       Okay. Is that the affirmation of  
18     service?

19            Q.       Oh, sorry. The Verification.

20            A.       Got it.

21            Q.       You see the third sentence, "Gideon Mark  
22     verifies or affirms"?

23                    "Working in conjunction with Engelhard I  
24     have prepared and reviewed the foregoing responses to  
25     first standard set liability Interrogatories. I know

1 the contents thereof to be true based on the factual  
2 analysis conducted with and on behalf of Engelhard."

3 Do you see that?

4 A. Yes.

5 Q. What factual analysis did Gideon Mark  
6 conduct with Engelhard?

7 MR. BRESS: Objection. Form.

8 A. Well, I -- I don't know.

9 I do remember speaking with Gideon on  
10 the phone.

11 My only knowledge was that the  
12 available -- the records available at Cahill were I  
13 thought all the company had so --

14 Q. Mm'mm.

15 A. -- you know, the -- but I think that's --  
16 that's all -- all the analysis I'm aware of.

17 Q. Okay. So you coordinated the lawyers to  
18 work together; not necessarily the responses. Is that  
19 fair?

20 MR. BRESS: Objection to form.

21 A. I don't really --

22 THE WITNESS: I'm sorry.

23 MR. BRESS: Objection to form.

24 MR. DONOHUE: It was an objection to  
25 form. I'll join.

1           A.       And I don't -- I don't remember this  
2       specific response that well. That might be true but  
3       I -- you know, I just don't remember it that well.

4           Q.       Did you ever read the actual  
5       Interrogatories?

6           A.       I don't remember.

7           Q.       Okay. So fair to say that you yourself  
8       did not consult any records or speak to any  
9       nonattorney personnel in answering these questions?

10          A.       Yes.

11          Q.       Would you agree with me that as an  
12       officer of the Court it would be a violation of the  
13       duty of candor to intentionally provide discovery  
14       responses that a lawyer had reason to believe were  
15       incomplete or misleading?

16                   MR. DONOHUE: Objection to form.

17                   MR. BRESS: Objection to form.

18                   MR. DONOHUE: You could answer.

19          A.       Yes.

20          Q.       Would you agree with me that plaintiffs  
21       would make decisions and value cases based on the  
22       information disclosed to them in discovery responses  
23       such as in Exhibit 57?

24                   MR. DONOHUE: Objection to form.

25                   MR. BRESS: Join.



1           A.       I would say that's a logical surmise but  
2   I've never actually been involved in that process and  
3   I don't have any firsthand information.

4           Q.       Would you expect that lawyers with  
5   historical knowledge of information would disclose the  
6   information to individuals certifying Interrogatories  
7   or coordinating Answers To Interrogatories --

8                   MR. DONOHUE:   Object.

9           Q.       -- like this to insure that they are  
10   complete and accurate?

11                  MR. DONOHUE:   Objection to form.

12                  MR. BRESS:   Join.

13                  MR. DONOHUE:   You may answer.

14           A.       Could you repeat that -- the beginning --  
15   read the question please.

16           Q.       Sure.

17                   (Last question read back by the reporter.)

18           A.       So if a lawyer was in possession of  
19   information and was asked to participate in some way  
20   in the response would they disclose relevant  
21   information?

22           Q.       Would you expect that they would disclose  
23   that to you?   Yes.

24                  MR. BRESS:   Objection.   Form.

25           A.       And I -- I believe in general they

1     should.

2             Q.       So if Mr. Dornbusch had information in  
3     his possession that contradicted responses to these  
4     Interrogatories would you believe that he had an  
5     obligation to disclose that information to you so that  
6     you could provide honest and complete answers as the  
7     corporate officer coordinating these responses?

8             MR. DONOHUE:   Objection to form.

9             MR. BRESS:    Objection to form.

10            A.       If Mr. Dornbusch knew of the response  
11     and read it closely enough to realize it was incorrect  
12     I believe he should have and would have said  
13     something.

14            Q.       If Peter --

15            A.       And -- and it was -- I mean, assuming it  
16     was incorrect as well.

17            Q.       If Peter Sloane had information in his  
18     possession contradicting responses to these  
19     Interrogatories would you -- do you believe that he  
20     had an obligation to disclose that information to you  
21     so that you could provide honest and complete answers  
22     as the corporate officer coordinating these responses?

23            MR. DONOHUE:   Objection to form.

24            MR. BRESS:    Objection to form.

25            A.       Well -- you know, as with Arthur, if --

1 if he knew about the inquiry and the response and knew  
2 that it was incorrect and he had information that he  
3 felt he was not required to withhold because of  
4 privilege or anything else -- but -- you know, I don't  
5 have any reason to believe that either Peter Sloane or  
6 Arthur saw this.

7 Q. Okay.

8 A. So I -- you're asking me a hypothetical  
9 question.

10 My answer is generally if somebody has  
11 information and they're -- it's within the control of  
12 the Respondent and they know -- they're being asked  
13 whether it's correct or not and they know it's not,  
14 yeah, they should -- they should advise the -- the  
15 Respondent that it's incorrect but that -- that's a  
16 general hypothetical answer.

17 I -- I don't have any knowledge of what --  
18 what either of those people saw in this matter.

19 Q. So if Arthur Dornbusch had the Westfall  
20 deposition transcripts that we went over earlier in  
21 his possession or he knew about them do you believe  
22 that he had an obligation to disclose that information  
23 to you so that you could provide an honest and  
24 complete answer as the corporate officer coordinating  
25 these responses?

1 MR. BRESS: Objection --

2 MR. DONOHUE: Objection to form.

3 MR. BRESS: -- to form.

4 You're now also just -- you're asking  
5 for basically legal judgments and mental conclusions,  
6 mental impressions.

7 MR. JARED PLACITELLA: That's fine. He  
8 could answer.

9 MR. BRESS: I'm not sure he can the way  
10 you phrased that.

11 MR. JARED PLACITELLA: Let's see if he  
12 can. You don't have to instruct him.

13 MR. DONOHUE: Well -- okay.

14 I -- I think what Mr. Bress was getting  
15 at was -- if he's talking about mental impressions and  
16 conclusions that it could be attorney work product  
17 but --

18 MR. BRESS: Correct.

19 MR. DONOHUE: -- so that would be  
20 something that I would not want the witness to divulge.

21 Q. If Dornbusch had -- if Mr. Dornbusch had  
22 the Westfall deposition -- depositions that we  
23 discussed earlier in his possession or was aware of  
24 them would you hope that he would disclose that  
25 information to you so that you can provide honest and

1 complete answers as the corporate officer coordinating  
2 these Interrogatory responses?

3 MR. BRESS: I have to --

4 MR. DONOHUE: Objection to form.

5 MR. BRESS: I have --

6 MR. DONOHUE: You can answer that.

7 MR. BRESS: I have to object to form but  
8 I also think that as phrased I don't see how you can  
9 answer that without disclosing work product. If  
10 you're able to...

11 MR. JARED PLACITELLA: It's not attorney  
12 work product.

13 Q. You can answer?

14 MR. DONOHUE: Well, I'm going to -- I'm  
15 not going to --

16 MR. BRESS: I need -- I need to talk --  
17 I -- I...

18 I'm going to have to step outside with  
19 the witness then. I'm going -- if you're going to  
20 persist with the line of questioning.

21 MR. JARED PLACITELLA: Be my guest.

22 MR. DONOHUE: All right.

23 MR. JARED PLACITELLA: Do what you got  
24 to do.

25 MR. DONOHUE: Let's go.

1 THE VIDEOGRAPHER: The time is 2:18 p.m.  
2 Off the record.

3 (At this time the witness and counsel  
4 leave the deposition room at 2:18 p.m.)

5 THE VIDEOGRAPHER: The time is now 2:34  
6 p.m. On the record.

7 MR. JARED PLACITELLA: Before our break  
8 I believe I had a question pending.

9 Pat, would you mind reading it back for  
10 us.

11 (The following question is read back by  
12 the reporter:

13 "Question: If Mr. Dornbusch had the  
14 Westfall depositions that we discussed earlier in his  
15 possession or was aware of them would you hope that he  
16 would disclose that information to you so that you can  
17 provide honest and complete answers as the corporate  
18 officer coordinating those Interrogatory responses?")

19 A. So I --

20 MR. BRESS: Objection to form.

21 MR. DONOHUE: Join.

22 A. I mean, you're -- you're asking me to  
23 assume that Mr. Dornbusch had these depositions, that  
24 he was aware of the Interrogatory, that he knew the  
25 depositions would be responsive to something in the

1 Interrogatory and that he consulted me about whether  
2 to include them or not, and I just -- I don't know.  
3 It's -- it's too many ifs.

4 I cannot answer the -- the question.

5 Q. So let's turn to Page 35 of the  
6 Interrogatories.

7 A. 35. Okay.

8 Q. Interrogatory 63. Do you see that?

9 A. Yes.

10 Q. It says, "If any of your employees or  
11 officers have testified at trial or by deposition or  
12 before any Congressional committee or administrative  
13 agency concerning asbestos exposure, pulmonary or  
14 asbestos-related diseases or industrial hygiene  
15 relating to asbestos, state," and it says A through D.

16 Do you see that?

17 A. Yes.

18 Q. And you see the response to number 63  
19 says "no." Do you see that?

20 A. Yes.

21 Q. Would you agree with me that Exhibits 3  
22 and 4, the depositions of Dr. Hemstock and Mr. Gale in  
23 the Westfall case, would be responsive to this  
24 Interrogatory?

25 MR. BRESS: Okay. That I'm going to

1 instruct you not to answer. That really is asking for  
2 his legal judgment.

3 MR. JARED PLACITELLA: He coordinated  
4 the responses. He's the corporate officer answering  
5 the questions on behalf of the company. He should --

6 MR. BRESS: He's testified that when you  
7 said he coordinated the responses he put two outside  
8 counsel together.

9 MR. JARED PLACITELLA: But he's  
10 ultimately responsible --

11 MR. DONOHUE: Wait a minute. He didn't  
12 sign the Verification.

13 MR. JARED PLACITELLA: Right. Fair.

14 MR. DONOHUE: So -- and, you know,  
15 certainly I don't want to mischaracterize what his  
16 role was in --

17 MR. JARED PLACITELLA: Sure.

18 MR. DONOHUE: -- coordinating.

19 MR. JARED PLACITELLA: How about this?

20 Q. Mr. Hassett, reading that Interrogatory  
21 and now knowing about Exhibits 3 and 4, the Hemstock  
22 deposition and Mr. Gale's deposition from the Westfall  
23 case, would you have expected that those answering  
24 these Interrogatories on behalf of the company would  
25 include -- would identify those transcripts in



1 response to our -- Interrogatory 63?

2 MR. BRESS: Can you repeat the question?  
3 Or read it back, please.

4 MR. DONOHUE: Read it back.

5 (Last question read back by the  
6 reporter.)

7 MR. BRESS: Again, I think maybe there's  
8 some other way to rephrase it but I think you're  
9 asking for his mental impressions about how he regards  
10 certain documents as relevant to a certain  
11 Interrogatory.

12 Q. Do you know the answer to my question,  
13 Mr. Hassett?

14 A. Well, I think your question is asking  
15 for my opinion.

16 Are you asking for my opinion or my --  
17 what my course of conduct would have been? I'm not  
18 quite sure...

19 Q. Well, how about this question?

20 If you knew about the Hemstock and Gale  
21 depositions would you have insured that they would  
22 have been identified in response to Interrogatory  
23 Number 63?

24 MR. BRESS: Objection to form.

25 MR. DONOHUE: Same.

1           A.       You know, I -- I still am not fully  
2 familiar with those documents although we did look at  
3 excerpts today.

4                   Based on what I saw in the excerpts I  
5 would certainly consult experienced litigation counsel  
6 and possibly get some technical assistance before I  
7 give a simple no in response to this question but  
8 beyond that I don't know.

9           Q.       Okay. If Cahill Gordon had possession,  
10 custody or control of Exhibits 3 and 4, the Hemstock  
11 and Gale Westfall transcripts, would you have expected  
12 them as your lawyers -- as Engelhard's lawyers to  
13 disclose those deposition transcripts to you when  
14 coordinating the responses to Interrogatory Number 63?

15                   MR. BRESS: Objection form.

16                   MR. DONOHUE: I have an objection to  
17 form and -- and a continuing objection.

18                   And I've let this go for awhile but --  
19 but this witness is a fact witness.

20                   You've asked a series now of  
21 hypothetical questions about which this witness has no  
22 factual knowledge so, you know, I'm -- I'm hoping at  
23 some point you're going to cut off this line of  
24 hypotheticals.

25                   MR. JARED PLACITELLA: Okay.

1 Q. You can answer.

2 A. What was the question again?

3 (The following question is read back by  
4 the reporter:

5 "Question: If Cahill Gordon had  
6 possession, custody or control of Exhibits 3 and 4,  
7 the Hemstock and Gale Westfall transcripts, would you  
8 have expected them as your lawyers -- as Engelhard's  
9 lawyers to disclose those deposition transcripts to  
10 you when coordinating the responses to Interrogatory  
11 Number 63?")

12 A. So I have to assume they had -- assume  
13 that the lawyer working on -- assuming the division of  
14 labor between Tony Paduano's firm and Cahill was such  
15 that a Cahill lawyer was looking at these  
16 Interrogatories, that it was the same Cahill lawyer  
17 who knew about the Affidavits or the -- excuse me --  
18 the -- deposition transcripts and -- and make some  
19 judgment about whether I'm supposed to make my  
20 judgment about whether there was any privilege or not  
21 and then answer?

22 I -- it seems -- it's -- I can't do it.  
23 It's too much.

24 Q. Well, we saw the -- Exhibit 3, the  
25 Hemstock deposition Peter Sloane was present for,

1 right?

2 MR. BRESS: Objection.

3 Q. He was on the Appearance list?

4 A. We can -- I don't remember that. I --

5 Q. Would you like to look at that again?

6 A. If you want, sure.

7 MR. DONOHUE: Exhibit 3.

8 A. So this is deposition -- this is Peter  
9 Sloane. Okay.

10 Yes. He was on -- yes, he was on the  
11 appearances for the Hemstock deposition we looked at.

12 Q. And do you recall that Peter Sloane  
13 helped coordinate with you these Answers To  
14 Interrogatories?

15 MR. DONOHUE: Objection to form.

16 MR. BRESS: Join.

17 A. And in -- in any specific case including  
18 the Chernick case --

19 Q. Mm'mm.

20 A. -- I am not sure if Peter Sloane was  
21 involved and I -- I hope -- I don't think I said that.

22 Cahill -- Cahill did provide counsel  
23 referrals and they did maintain some records but, you  
24 know, as to exactly who did what within Cahill on this  
25 particular case I do not know.

1 Q. Sure. But Cahill, the law firm, knew  
2 about the Hemstock deposition. Is that fair?

3 MR. BRESS: Objection to form.

4 MR. DONOHUE: Objection to form.

5 A. The only reason I know -- the only  
6 reason I know anything about that is because you just  
7 showed me the appearance by Peter Sloane in the  
8 deposition.

9 Q. Right. And Cahill helped answer these  
10 Interrogatories with the Paduano and Weintraub law  
11 firm. Is that fair?

12 MR. DONOHUE: Objection to form.

13 A. I -- yeah. I did ask Tony -- Tony  
14 Paduano's firm to get information from Cahill and I  
15 don't know anything about the division of labor that --  
16 or the communications that occurred after that between  
17 the two.

18 Q. So what information in these  
19 Interrogatories would have been in the possession of  
20 Paduano and Weintraub?

21 MR. BRESS: Objection. Form.

22 A. None that I know of.

23 Q. Right. All the information had to have  
24 come from Cahill Gordon. Is that fair?

25 A. As far as I know.

1 Q. Right. So Cahill Gordon provided  
2 Paduano Weintraub law firm with the information to  
3 respond to these Interrogatories, correct?

4 A. I -- you know, I -- as far as I know,  
5 yes.

6 Q. Right. So would you as the corporate  
7 officer answering these Interrogatories that Cahill  
8 provided the factual basis for expect that Cahill  
9 would disclose the Hemstock deposition and the Gale  
10 deposition when you answer Interrogatory Number 63?

11 MR. DONOHUE: Same objection to form.

12 MR. BRESS: Objection to form.

13 MR. DONOHUE: Asked and answered.

14 A. And, again, I have to -- you -- you're  
15 assuming...

16 I mean, I don't know who at Cahill  
17 worked on what, who knew about the Hemstock deposition.  
18 I don't know what if any privilege they might have  
19 been considering. I just -- I don't know -- I don't  
20 know as a factual matter what happened.

21 You're asking me I think to make some  
22 guesses about what might have happened.

23 I could make guesses but it wouldn't be  
24 knowledge.

25 Q. So I was going to go through all these --

1 many of these Interrogatories and ask what the factual  
2 basis was for the response.

3 Is it fair that you do not know what the  
4 factual basis is for any response to these  
5 Interrogatories that you coordinated the Answers for?

6 MR. BRESS: Objection. Form.

7 A. It -- it is fair to say that I don't  
8 have firsthand knowledge of any of these responses I  
9 believe and I haven't read the replies in detail.

10 Q. Mm'mm.

11 A. And I didn't -- I didn't recall them --  
12 the -- I've just seen parts of them as of the last few  
13 days but in general I didn't have any personal  
14 knowledge of the talc business.

15 MR. JARED PLACITELLA: Pat, I'm sorry.  
16 Could you read back my question.

17 (Last question read back by the reporter.)

18 Q. Can you answer that question?

19 MR. BRESS: Objection. Form.

20 I think he did answer the question.

21 A. Yeah. Maybe I -- I don't know. Maybe I  
22 misunderstood part of the question.

23 I didn't have personal knowledge of the  
24 talc business.

25 My understanding was that information

1 about the -- the talc business and the talc had been  
2 collected at Cahill Gordon and the factual source that  
3 I was -- the factual source that I was aware of would  
4 have been that information.

5 Q. In answering these specific  
6 Interrogatories no one at Cahill provided factual  
7 information responses. Is that fair?

8 MR. BRESS: Objection --

9 MR. JARED PLACITELLA: Wait. Scratch  
10 that.

11 Q. Is it fair that --

12 MR. DONOHUE: You mean to say is it fair  
13 to say?

14 Q. Is it fair to say that no one at  
15 Engelhard provided factual information responding to  
16 these Interrogatories?

17 MR. BRESS: Objection to form.

18 A. Well, again, maybe I -- I haven't read  
19 all those Interrogatories and I don't remember  
20 anything about them from 16, 17 years ago, whenever it  
21 was, but as it -- as it relates to the talc business  
22 which I think is probably what you're interested in, I  
23 don't recall doing any canvassing within Engelhard to  
24 answer these Interrogatories.

25 Q. Do you know of -- not just these -- of



1 any Interrogatories where Engelhard provided the  
2 factual information that was called for in response?

3 MR. BRESS: Objection to form.

4 A. Well, we're just talking about the --  
5 you're not talking about litigation. You're just  
6 talking about the handful of talc -- nontire worker  
7 talc cases --

8 Q. Right.

9 A. -- I was involved with, right? Okay.

10 I -- I don't recall -- you know, other  
11 than information I might have been able to provide  
12 about when was the company incorporated or something,  
13 but when we're talking about the talc business I don't  
14 recall the -- you know, canvassing within the company  
15 for information because I -- the business had been  
16 closed for years, the mine had been closed for years.

17 My understanding was the information had  
18 already been collected. I didn't -- I didn't think  
19 there was anything to -- to get. It was different  
20 than other litigations because of that.

21 Q. Right.

22 Cahill had the documents you said in  
23 its --

24 A. I --

25 Q. -- possession?

1           A.       My -- my understanding was Cahill had  
2       the information on the talc business.

3           Q.       And you never spoke to a former or  
4       current employee to get information to respond to a  
5       discovery response in a talc case. Is that fair?

6           A.       That -- that is my recollection.

7           Q.       Do you know whether Engelhard -- I mean,  
8       do you know whether Cahill ever spoke to a current or  
9       former employee to get information to respond to a  
10      discovery request in a talc case?

11          A.       Ever or the ones I handled?

12          Q.       Well, let's start with the ones you  
13      handled first.

14          A.       Not that I know of.

15          Q.       How about ever?

16          A.       I don't have personal knowledge. I -- I  
17      could surmise something but the short answer is I  
18      don't know.

19          Q.       Okay. Could we turn to Page 37, please,  
20      or 36.

21                    In response to Interrogatory Number 65  
22      on Page 37 the first full paragraph, all right?

23                    It says that...

24                    MR. JARED PLACITELLA: Next.

25          A.       Page 37?

1 Q. Yeah.

2 A. The talc that Engelhard sold to Bondo?

3 Q. Exactly right.

4 A. Okay.

5 Q. It says, "The talc that Engelhard sold  
6 to Bondo was sold through Engelhard's former  
7 subsidiary Emtal later known as Pita. The only talc  
8 mine operated by Emtal and accordingly Engelhard was  
9 located in Johnson, Vermont. Emtal produced talc from  
10 that mine from October 1967 when Emtal acquired the  
11 mine until 1983 when the mine was closed for economic  
12 reasons. A number of analysis of the Johnson mine  
13 have been conducted and all of them have concluded  
14 that the talc produced from this mine did not contain  
15 asbestos."

16 Do you see that?

17 A. Yes.

18 Q. After reviewing the excerpts from the  
19 Westfall deposition shown to you today is "a number of  
20 analysis of the Johnson mine have been conducted and  
21 all of them have concluded that talc produced from  
22 this mine did not contain asbestos," is that a true  
23 statement?

24 MR. BRESS: Objection to form.

25 Foundation.

1           A.       Well, at the time this Interrog -- at  
2     the time of this response to the Interrogatories it  
3     was true to my knowledge. It may be -- it may be  
4     inconsistent with some of the stuff we looked at  
5     earlier today.

6           Q.       Mm'mm.

7           A.       But I am not really an expert on  
8     asbestos and I did not really read any of those things  
9     fully or carefully so I'm not -- I'm not in a great  
10    position to give you an opinion on whether it's true  
11    in light of everything that everybody knows about  
12    today except me basically.

13          Q.       Right. I'm not saying that you knew  
14    about that evidence when you -- when these  
15    Interrogatories was coordinated.

16          A.       Yeah, but I -- I -- it's hard for me to  
17    assess the --

18                   THE WITNESS: I'm sorry.

19          Q.       Sure.

20          A.       Sorry.

21          Q.       So I'm saying a number of analysis of  
22    the Johnson mine have been conducted and all of them  
23    have concluded that the talc produced from this mine  
24    did not contain asbestos.

25                   Knowing now that Engelhard scientists

1 testified that they had found asbestos in the Johnson  
2 mine do you believe that to be a true statement?

3 MR. BRESS: He's already answered this  
4 question.

5 A. Again --

6 MR. BRESS: Objection to form and  
7 foundation.

8 A. I looked at the stuff you showed me  
9 earlier today and it suggests that there's more to  
10 this than I realized 17 years ago, 16 -- whatever --  
11 but I -- I'm not an expert. I don't know of looking  
12 at three paragraphs in an 80-page pile is enough to --  
13 for me to start drawing conclusions.

14 Q. Okay. And it's fair to say that in your  
15 plain reading of this Interrogatory there is no  
16 equivocation in that sentence?

17 MR. BRESS: Objection to form.

18 MR. DONOHUE: Object.

19 MR. BRESS: Now I think you're -- you're  
20 crossing the line into getting him to interpret an  
21 offer work product of -- of this document.

22 MR. JARED PLACITELLA: A work product  
23 that was -- that he coordinated the Answers to and was  
24 served by Engelhard and served in litigation?

25 MR. BRESS: If you want to try to -- if

1 you want to try to rephrase the question a different  
2 way, but I think now you're starting to -- you're  
3 before asking him hypotheticals. You're assuming  
4 facts. You're asking him to assume facts that he  
5 doesn't know.

6 MR. JARED PLACITELLA: I'm not asking --

7 MR. BRESS: Now you're asking him a  
8 different type of question.

9 You're asking him for -- for something --  
10 for his mental impressions and legal judgment on  
11 something that was written.

12 We've let you go on with the  
13 hypotheticals which are completely improper. We've  
14 let you asked them. We've given you plenty of time to  
15 ask them and he's done his best to answer, but I think  
16 now you're turning the corner and you need to rephrase  
17 the question or more likely engage in a more line -- a  
18 different line of questioning because this question to  
19 me is not appropriate.

20 MR. JARED PLACITELLA: Is that a form or  
21 foundation objection?

22 MR. BRESS: I've objected --

23 MR. DONOHUE: Form.

24 MR. BRESS: -- on a work product and  
25 form and foundation.

1                   If there's a way to rephrase the  
2 question --

3                   MR. JARED PLACITELLA: So are you not  
4 going to allow him to answer the question?

5                   MR. BRESS: What is the question again?

6                Q.       The question is in this sentence a  
7 number of analysis of the Johnson mine have been  
8 conducted and all of them have concluded that the talc  
9 produced from this mine do not contain asbestos.

10                   Is there any equivocation in that  
11 statement?

12                   MR. BRESS: You're -- hold on a second.

13                   (Pause.)

14                   MR. DONOHUE: The problem I have with it  
15 is it's argumentative and it -- it's asking for his  
16 opinion of somebody else's sentence if there's  
17 equivocation, right? I mean, how evidential is that  
18 or likely to lead to evidence?

19                   MR. JARED PLACITELLA: Well, I'm not  
20 trying to be -- I'm not trying to be argumentative  
21 with Mr. Hassett at all and I understand --

22                   THE WITNESS: You've been very courteous  
23 about that. I'm not complaining.

24                   MR. JARED PLACITELLA: I understand that  
25 he did not write this. I'm not even sure if he ever

1 saw it before it was served so I'm just asking because  
2 he was the corporate officer who was supposed to be  
3 responding to these Interrogatories -- and my  
4 understanding of Interrogatories is they have to be  
5 certified or responded to by the client and not a  
6 lawyer. I want to know if there's any equivocation in  
7 that sentence.

8 MR. DONOHUE: Well, my understanding is  
9 that's not what happened in this case; that somebody  
10 else certified the Answers.

11 So the questions you're asking about  
12 whether this witness can interpret a sentence that  
13 somebody else apparently wrote is an improper  
14 question.

15 MR. JARED PLACITELLA: Well, I don't  
16 know. He -- I don't need to argue --

17 MR. DONOHUE: He didn't certify it, Jared.

18 MR. JARED PLACITELLA: Yeah, but he  
19 worked with -- in conjunction with Engelhard --

20 MR. DONOHUE: And he told you what that  
21 limited role was. Come on.

22 MR. JARED PLACITELLA: Okay.

23 THE WITNESS: Doesn't the thing sort of  
24 speak for itself anyway?

25 MR. JARED PLACITELLA: Can I have my



1 question back one more time. Sorry.

2 (The following question is read back by  
3 the reporter:

4 "Question: The question is in this  
5 sentence a number of analysis of the Johnson mine have  
6 been conducted and all of them have concluded that the  
7 talc produced from this mine do not contain asbestos.  
8 Is there any equivocation in that statement?"}

9 MR. BRESS: So, look. If you're going  
10 to -- if you're going to persist I got to take a quick  
11 break.

12 MR. JARED PLACITELLA: What's the break?  
13 Is it discussing a privilege issue?

14 MR. BRESS: I need to think about the  
15 privilege issue, yeah, so I need to take a quick  
16 break.

17 This is all improper questioning. It's  
18 not asking anybody's factual knowledge or anything.  
19 It's asking him for some kind of legal opinion,  
20 possibly work product. So let me go off the record.

21 MR. JARED PLACITELLA: Fine.

22 THE VIDEOGRAPHER: The time is 3 p.m.  
23 Off the record.

24 (Recess taken at 3:00 p.m.)

25 THE VIDEOGRAPHER: The time is now 3:04

1 p.m. On the record.

2 MR. JARED PLACITELLA: Before -- I  
3 believe before the break there was a question pending,  
4 Pat. Can you read that back for us, please.

5 (Same last question read back by the  
6 reporter.)

7 MR. BRESS: So are you asking him for  
8 his mental impressions of the statement?

9 MR. JARED PLACITELLA: I think the  
10 question stands.

11 MR. BRESS: So what are you asking for  
12 if you're not asking for his mental impressions?  
13 That's the -- that's the issue I'm having because I  
14 don't understand how he can answer that question without  
15 giving you his mental impressions so the question to  
16 you is what are you asking for here?

17 Q. Mr. Hassett, do you understand my  
18 question?

19 MR. BRESS: Well, that's --

20 A. I believe I understand the question.

21 Q. Are you able to answer my question?

22 A. Yes, I could answer the question.

23 MR. JARED PLACITELLA: Are you going to  
24 let him answer the question?

25 MR. BRESS: But I've asked you my

1 question which is --

2 MR. JARED PLACITELLA: I'm asking the  
3 questions here.

4 MR. BRESS: Well, I've asked for  
5 clarification on the question because I --

6 MR. JARED PLACITELLA: He understands  
7 the question.

8 MR. BRESS: That's not the issue.

9 The issue is that the question I think  
10 is asking for his mental impression.

11 I've asked you to clarify how it -- how  
12 it may not be and you haven't done so so on that basis  
13 I have to instruct him not to answer.

14 MR. JARED PLACITELLA: Okay.

15 BY MR. JARED PLACITELLA:

16 Q. But for that instruction you would be  
17 able to answer the question. Is that fair?

18 A. If I -- I think so.

19 Q. Okay. All right.

20 MR. JARED PLACITELLA: Before I go any  
21 further how much time will you need?

22 MR. BRESS: I'm not planning to...

23 MR. JARED PLACITELLA: Okay.

24 Here's 24.

25 MR. DONOHUE: I need about two hours.

1 MR. JARED PLACITELLA: And, Tony, do you  
2 need any time?

3 MR. VALE: To ask questions?

4 MR. JARED PLACITELLA: Yeah.

5 MR. VALE: I don't think so.

6 MR. JARED PLACITELLA: Okay.

7 MR. VALE: I'm sorry. What -- what was  
8 your answer, Dan?

9 MR. BRESS: I'm -- I'm not planning to.  
10 See what happens with the rest.

11 MR. JARED PLACITELLA: Tony, you want a  
12 copy of this?

13 BY MR. JARED PLACITELLA:

14 Q. In front of you, Mr. Hassett, is what's  
15 been marked as Exhibit 124 for identification and it's  
16 a May 3rd, 2002 letter from Gideon Mark to Mark Strauss.

17 Do you see that?

18 A. Yes.

19 Q. Have you ever seen this letter before  
20 today?

21 A. It -- I don't remember it.

22 Q. Okay. This letter's dated May 3rd,  
23 2002. So about three weeks after the Interrogatories  
24 were verified and served that we just discussed in  
25 Exhibit 57.

1           A.       The letter comes after the  
2 Interrogatories.

3           Q.       Right.

4           A.       Okay.

5           Q.       The first paragraph of the letter,  
6 Exhibit 124, it says, "As you know prior to that  
7 conference" -- this is the third sentence -- "we had  
8 furnished various materials to you which we believe  
9 conclusively demonstrates that the talc supplied to  
10 Bondo by Engelhard Corporation, Engelhard, or its  
11 former subsidiaries contained no asbestos. These  
12 materials were supplied, summarized in Engelhard's  
13 responses to your claim -- client's First Standard Set  
14 of Liability Interrogatories," and then it lists  
15 certain documents.

16                   Do you see that?

17           A.       Yes.

18           Q.       And then if you go down to the third  
19 paragraph, the last paragraph on the page, it says,  
20 "Your letter" -- referring to I guess a letter from  
21 the early Strauss firm -- "identifies five types of  
22 sales by Emtal; Emtal Bulk (T), Emtal 40190 up to  
23 1985, Emtal 42 talc bags, Emtal 500 and Emtal 42 Bulk?

24                   "Engelhard does not deny that sales of  
25 these products from Emtal to Bondo occurred but there

1 is absolutely no evidence that this talc contained  
2 asbestos regardless of how long it might have been  
3 held in inventory by Bondo."

4 Did I read that correctly?

5 A. I read it the same way you do.

6 Q. Based on -- after -- scratch that.

7 After reviewing the excerpts from the  
8 Hemstock and Gale Westfall depositions that we  
9 discussed this morning is that a true statement?

10 MR. DONOHUE: Object to form.

11 MR. BRESS: Object to form.

12 Once again, are you asking him for his  
13 mental impressions as a lawyer? Because I don't  
14 understand how the question wouldn't call for that.

15 Q. What is your understanding of absolutely  
16 no evidence, Mr. Hassett?

17 MR. BRESS: That's the same -- the same  
18 question, Jared. Are you asking him for his mental  
19 impressions as a lawyer?

20 MR. JARED PLACITELLA: I'm asking for  
21 his plain reading and understanding of the words  
22 "absolutely no evidence."

23 You tell me what legal impressions or  
24 mental impressions are needed to read that statement.

25 MR. BRESS: Well, the problem is that

1     you're deposing a former in-house lawyer about a  
2     statement made in litigation so it -- it's -- it's  
3     hard -- it's necessarily asking for that unless you  
4     can explain to me how it's not.

5                     MR. JARED PLACITELLA: Right. That was  
6     served to a plaintiff's counsel.

7                     MR. BRESS: He's not on --

8                     MR. JARED PLACITELLA: It's not --

9                     MR. BRESS: -- this letter.

10                    MR. JARED PLACITELLA: -- internal.

11                    MR. BRESS: He didn't write this letter.

12                    Q.     Right. What is your understanding of  
13     the words "absolutely no evidence," Mr. Hassett?

14                    MR. BRESS: Are you asking as a general  
15     matter --

16                    MR. JARED PLACITELLA: Yes.

17                    MR. BRESS: -- or in the context of  
18     this --

19                    MR. JARED PLACITELLA: Yes.

20                    MR. DONOHUE: As a general matter.

21                    A.     As a general matter, absolutely no  
22     evidence would mean no material information that would  
23     tend to prove whatever proposition was in issue.

24                    Q.     So if a letter says absolutely no  
25     evidence that Emtal talc contained asbestos, as a

1 general matter does that mean to you that there was  
2 asbestos but below a certain threshold?

3 MR. BRESS: Objection to form. I think  
4 you're now asking for some kind of legal opinion or  
5 legal judgment. I need to understand how you're not  
6 so explain to me --

7 MR. JARED PLACITELLA: I asked as a  
8 general matter. What does no -- no evidence mean? Is  
9 it...

10 MR. DONOHUE: No. No. You added  
11 something at the end there.

12 Q. Does absolutely no evidence as a general  
13 matter mean no reliable evidence?

14 MR. BRESS: Objection to form.  
15 Again, are you asking...

16 A. Tony's ready to eat his magic marker  
17 down there. We got to do something.

18 MR. VALE: I'm keeping my mouth shut.

19 MR. BRESS: What's the question, Jared?

20 (The following question is read back by  
21 the reporter:

22 "Question: Does absolutely no evidence  
23 as a general matter mean no reliable evidence?")

24 MR. BRESS: Again, Jared, are you asking  
25 him to form some kind of legal judgment or legal



1 opinion here? Because it's -- it's hard to understand  
2 how -- when you're questioning an in-house lawyer  
3 about this particular statement that's what you're --  
4 seems what you're getting at.

5 MR. JARED PLACITELLA: Are you going to  
6 instruct him not to answer?

7 MR. BRESS: Well, I asked you to give  
8 me a --

9 MR. JARED PLACITELLA: This is my  
10 question. Are you instructing him not to answer?

11 MR. BRESS: So are you -- are you saying  
12 that you're asking for something other than a mental  
13 impression?

14 MR. JARED PLACITELLA: I asked my  
15 question. You could either instruct him not to answer  
16 or not.

17 MR. BRESS: Based on the way you phrase  
18 the question I'm not sure how I can allow him to  
19 answer without revealing mental impression.

20 MR. JARED PLACITELLA: That's fine.

21 Q. But for the instruction not to answer  
22 could you answer my question, Mr. Hassett?

23 A. The question was is -- I'm sorry. Hang  
24 on a second.

25 MR. DONOHUE: The question was does

1 absolutely no evidence mean no reliable evidence? Or  
2 words to that effect.

3 THE WITNESS: Yeah.

4 MR. DONOHUE: Mr. Placitella said it  
5 much nicer.

6 A. I believe I could answer that.

7 Q. What was intended by Engelhard when it  
8 states there's absolutely no evidence that this talc  
9 contained asbestos?

10 MR. DONOHUE: I'm going to object to the  
11 form of the question.

12 MR. BRESS: I need to object to the form  
13 of the question and I don't -- you have to let us know  
14 if you can answer that question without disclosing  
15 privileged information.

16 A. Well, the only way I could answer the  
17 question would be just to interpret the letter with  
18 the same information that anyone who has got the  
19 letter in front of them has.

20 I mean, I'm not -- you know, I don't --  
21 I don't have any recollection of this particular  
22 letter or any discussion that led up to it.

23 I -- I don't have a -- I don't have a  
24 particular -- I don't have a factual gloss to offer on  
25 top of the -- the language of the letter itself.

1 Q. Okay. Do you know what the factual  
2 source of that representation is?

3 MR. BRESS: Again, I would instruct you  
4 you can -- not to reveal privileged communications in  
5 the course of answering that question so you can  
6 answer it to the extent you can.

7 A. You know, the only -- I -- I believe I  
8 directed the Paduano Weintraub firm to communicate  
9 with Cahill for the factual background materials and  
10 beyond that I have no recollection of -- of any other  
11 specific involvement in providing or -- being the  
12 middleman in any exchange of factual information.

13 Q. How you doing? All right? I'm going to  
14 switch gears. Do you want to take a break or are you  
15 okay to keep going?

16 A. I'm okay for awhile.

17 Hey, I'm not answering any of the  
18 questions. It's easy.

19 MR. VALE: Not through the lack of...

20 Q. Earlier we talked a little bit about the  
21 Martin case. Do you recall that?

22 A. Yes.

23 Q. And during your time in the house  
24 counsel's office at Engelhard you worked on the Martin  
25 case?

1 A. Yes.

2 Q. And what was your role and  
3 responsibilities in the context of defending the  
4 Martin case?

5 A. Well, I don't actually remember how the  
6 case was initiated, whether there was a complaint or a  
7 letter, whatever, and I -- I know I -- we had local  
8 counsel, Howard Merten.

9 The case was a Rhode Island case.  
10 Howard Merten was local counsel in Rhode Island. I  
11 don't really remember the exact process that led to  
12 his retention.

13 Early in the case there was a I believe  
14 mandatory mediation that required the attendance of  
15 the company representative and I -- and I attended as  
16 the company representative.

17 You know, that -- that describes most of  
18 my role there.

19 If you have more specifics I can try to  
20 respond.

21 Q. Sure.

22 In front of you, Mr. Hassett, is what  
23 I've marked as Exhibit 60 for identification. They  
24 are Defendant Eastern Magnesia Talc Company's Answers  
25 to Plaintiff's Interrogatories in the Martin case

1       dated I believe August 22nd, 2002?

2                       Do you see that?

3               A.       Yup.

4               Q.       During your defense of the Martin case  
5 do you recall reviewing Engelhard's Answers To  
6 Interrogatories?

7               A.       I do not remember this specifically.  
8 No, I don't. I'm not saying it didn't happen. I  
9 don't remember it.

10              Q.       Sure.

11                     Turn to Interrogatory Number 3.

12                     It says, "State the names of each person  
13 who was spoken to or who provided information to  
14 assist in answering these Interrogatories."

15                     Do you see that?

16              A.       Yes.

17              Q.       And the Answer is "Defendant's counsel  
18 assisted in answering these Interrogatories."

19                     Do you know who defendant's counsel is?

20              A.       In that sentence I do not.

21              Q.       Would that be you?

22              A.       I don't know.

23                     THE VIDEOGRAPHER: Sir, you're covering  
24 your microphone.

25                     THE WITNESS: Sorry.

1           Q.       And if we turn to the preliminary  
2       statement it says on the second sentence, "Pita  
3       formerly known as Eastern Magnesia Talc Company was  
4       engaged in the mining and milling of talc from a  
5       single mine located in Johnson, Vermont, from 1967 to  
6       1983. Talc from this mine did not contain asbestos  
7       and was not fibrous in nature."

8                   Do you see that?

9           A.       Yes.

10          Q.       What is the factual source or the  
11       factual basis for the statement "the talc from this  
12       mine did not contain asbestos" --

13                   MR. DONOHUE: Object --

14          Q.       -- "was not fibrous in nature"?

15                   MR. DONOHUE: Objection to form.

16                   MR. BRESS: And I would just --

17                   MR. DONOHUE: And foundation.

18                   MR. BRESS: I would just caution you,  
19       Mr. Hassett, not to reveal any privileged  
20       communication so you should answer without providing  
21       that information.

22          A.       Well, I don't remember or don't know the  
23       source for that information.

24                   MR. DONOHUE: Okay.

25          Q.       Did it come from your personal

1 knowledge?

2 MR. DONOHUE: Objection.

3 THE WITNESS: Should I answer if I --

4 MR. DONOHUE: Yes.

5 A. No.

6 Q. The next sentence says, "Pita has  
7 already provided plaintiff's counsel with various  
8 documentation of this fact including the Ashton  
9 Affidavit and supporting documents."

10 Do you see that?

11 A. Yes.

12 Q. Whose decision was it to provide the  
13 Ashton Affidavit and supporting documents to the  
14 plaintiff's counsel?

15 A. I don't know.

16 Q. Was it your decision?

17 A. I don't remember.

18 Q. Would it have been authorized by  
19 Engelhard?

20 MR. BRESS: Objection to form.

21 MR. DONOHUE: Object to form.

22 A. I -- I don't remember the decision and I  
23 can't remember any specifics of authorization or  
24 anything else about it. I just -- I don't know.

25 Q. Okay. Go to the second paragraph.

1                   The first whole paragraph on the second  
2   page. The second sentence says, "The plant manager  
3   for those operations is deceased and no one directly  
4   involved with those operations is currently in Pita's  
5   employ."

6                   Do you see that?

7           A.       Yes.

8           Q.       Do you know who the plant manager was?

9           A.       No.

10          Q.       Would it be Howard Shafer?

11          A.       I don't know.

12          Q.       Okay. Can you review these  
13   Interrogatories and tell me which Answers Engelhard  
14   provided the factual basis for?

15                   MR. DONOHUE: Objection to form and  
16   foundation.

17                   MR. BRESS: Join.

18          Q.       If any?

19          A.       Yeah. I just -- I don't remember  
20   anything about preparing these Interrogatories at all.  
21   I mean, when you asked me about my role in the case I  
22   jumped from opening letter, a Complaint, to mediation.  
23   That was because that's what I remember.

24                   I -- I just -- I don't know what -- I  
25   don't -- I don't remember what came from Engelhard or



1 any other particular source.

2 Q. Who would know the answer to that  
3 question?

4 A. Well, I don't really remember anything  
5 from preparing or putting these in. You know, maybe --  
6 I see Craig Stoneback and Howard Merten are on here as  
7 verifying and signing as to objections. They may  
8 remember more than I do. I don't know.

9 Q. Did you ever work with Craig Stoneback  
10 in responding to Interrogatories?

11 A. Not that I recall but...

12 Q. Do you know if Cahill or Engelhard's  
13 local counsel had direct access to Engelhard  
14 executives like Mr. Stoneback?

15 MR. BRESS: Objection to form.

16 A. Yeah. I -- I don't recall any but I  
17 don't know for sure in -- are you talking about this  
18 case or just in general?

19 Q. In general.

20 A. To Stoneback.

21 I still can't recall any.

22 (Pause.)

23 MR. DONOHUE: Thank you.

24 MR. JARED PLACITELLA: Tony?

25 Q. Mr. Hassett, in front of you is what's

1     been marked as Exhibit 205 for identification. It is  
2     plaintiff Theresa Martin's More Responsive Answers To  
3     Interrogatories propounded by Eastern Magnesia Company  
4     in the Martin case and it's dated June 10th, 2004  
5     Bates number 334310 through 334316.

6                     Do you see that?

7             A.       I'm sorry. I lost focus there for a  
8     second.

9                     See which specific part of this?

10            Q.       Well, have you ever seen these Answers  
11   before?

12            A.       I don't remember them.

13            Q.       Okay. I want to turn your attention to  
14   Page 2 which is the More Responsive Answer to  
15   Interrogatory 15.

16                     You see that? It's...

17            A.       Yes.

18            Q.       The -- the paragraph that begins with  
19   "Analysis was performed"?

20            A.       Yes.

21            Q.       It says, "Analysis was performed in 1983  
22   on talc samples from the Johnson mine by Dr. William  
23   Glassley, a geologist at Middlebury College. Mr.  
24   Glassley collected talc samples from the Johnson mine  
25   and identified asbestiform chrysotile which occurred

1 in aggregates forming small flakes. The small flakes  
2 were observed in talc samples from the Johnson mine by  
3 Mr. Glassley. He examined the rocks. The  
4 petrographic and electron micro -- microbe (sic) was  
5 used by Rudolph Van Huene in Pasadena, California."

6 Did I read that correctly?

7 A. You -- well, I think there's a typo in  
8 here which is fairly hard to read -- but microprobe or  
9 whatever but -- but, yes.

10 Q. I struggled with that.

11 Earlier in today's deposition when you  
12 said in the context of the Martin case you became  
13 aware that plaintiff have retained an expert who was  
14 ready to opine that he found asbestos in the Johnson  
15 mine. Is this what you were referring to?

16 MR. BRESS: Objection. Form.

17 A. No. My recollection was not as specific  
18 as this.

19 I -- I was not referring to this item.

20 Q. When did you first become aware that Dr.  
21 Glassley found -- reported finding asbestos in the  
22 Johnson mine?

23 MR. DONOHUE: Object to the form.

24 MR. BRESS: Join.

25 A. Yeah. I -- I do not remember the name

1 Glassley from back in 2004 and I didn't remember the  
2 specifics of these responses.

3 I -- and I -- I don't remember how  
4 exactly I first learned of how or when I first learned  
5 of plaintiff's assertion that they had some sort of  
6 expert so I -- you know, when -- other than just  
7 saying it was within the context of the Martin case I  
8 can't nail down the time any more carefully.

9 Q. Was the fact that the plaintiff in  
10 Martin had an expert who was prepared to opine that he  
11 found asbestos in the Johnson mine discussed within  
12 Engelhard?

13 MR. BRESS: So...

14 Q. No specific conversations. Was it  
15 discussed?

16 A. Yes.

17 Q. Was Cahill aware that the plaintiffs  
18 counsel in the Martin case had purportedly found an  
19 expert who was ready to opine that he found asbestos  
20 in the Johnson mine?

21 MR. BRESS: Objection to form.

22 MR. DONOHUE: Object to the form.

23 A. I don't know.

24 Q. Was the fact that the plaintiff's expert  
25 in the Martin case had retained an expert who had

1 found or purported to find asbestos in the Johnson  
2 mine ever discussed with any Cahill personnel?

3 A. By me?

4 Q. By you.

5 A. I don't -- I don't recall specific -- I  
6 don't specifically recall any discussion with Cahill --  
7 with anyone from Cahill.

8 Q. Do you know if any other personnel at  
9 Engelhard discussed the fact that the plaintiffs  
10 counsel in the Martin case retained an expert who  
11 purported to find asbestos in the Johnson mine with --  
12 was that discussion had with anybody in Cahill?

13 MR. BRESS: Objection. Form.

14 A. Yeah. I don't know of any such  
15 discussion.

16 Q. Did Engelhard have any discussions with  
17 the local defense lawyer that the plaintiffs expert in  
18 the Martin case purported to find asbestos in the  
19 Johnson mine?

20 MR. DONOHUE: That's a yes or no in  
21 order to protect any privilege.

22 MR. BRESS: I would say the same thing.

23 A. Okay. I need -- I need to hear that  
24 question again.

25 (Last question read back by the reporter.)

1 MR. BRESS: Objection to form as well.

2 A. Well -- yes.

3 Q. Without revealing specific

4 communications who did you discuss with the fact that  
5 the plaintiffs counsel in the Martin case retained an  
6 expert who purported to find asbestos in the Johnson  
7 mine?

8 MR. DONOHUE: Object to form. You can  
9 answer.

10 A. Who within local counsel or who -- who --

11 Q. Who within Engelhard?

12 MR. BRESS: You're asking who within  
13 Engelhard talked to local counsel?

14 MR. JARED PLACITELLA: Scratch that.

15 Q. Who did you -- within Engelhard who did  
16 you discuss with the fact that the plaintiffs counsel  
17 in the Martin case had retained an expert who  
18 purported to find asbestos in the Johnson mine?

19 A. I don't -- I discussed the case with  
20 Arthur Dornbusch. I don't -- I don't know about the  
21 retention of the expert but we -- the --

22 MR. BRESS: Don't reveal any  
23 communications with Arthur.

24 I think he just asked you did you --

25 A. Yes. Arthur -- Arthur Dornbusch.

1 MR. JARED PLACITELLA: Just to make it  
2 clear.

3 Q. Did you discuss the fact that the  
4 plaintiffs expert in the Martin case purported to find  
5 asbestos in the Johnson mine with Arthur Dornbusch?

6 THE WITNESS: Could I -- am I --

7 MR. DONOHUE: Yes or no?

8 A. Yes.

9 Q. Do you recall how you were made aware of  
10 the fact that the plaintiff's counsel in the Martin  
11 case -- the plaintiffs expert in the Martin case  
12 purported to find asbestos of Emtal talc?

13 MR. DONOHUE: I'm going to caution him  
14 not to reveal any privileged communications with his  
15 counsel.

16 MR. BRESS: Same instruction.

17 A. Well, I don't recall how I learned it  
18 so...

19 Q. Do you recall that Dr. Glassley served  
20 an expert report in the Martin case?

21 A. No.

22 (Pause.)

23 MR. JARED PLACITELLA: Sorry. I only  
24 have two.

25 MR. DONOHUE: Thanks.

1           Q.       Mr. Hassett, in front of you is what's  
2       been marked as Exhibit 14 for identification and it's  
3       Bates stamped beginning Lopez 2166 (sic) to 21681.

4                    Can you please review this document and  
5       let me know if you recall seeing it before?

6                   (Pause.)

7           A.       I do not recall seeing this document  
8       before.

9           Q.       Okay.

10                   MR. JARED PLACITELLA: For the record  
11       it's titled Summary Of Activities Related To Services  
12       Rendered For Decof and Grimm in the case of David H.  
13       Westfall versus Whittaker, Clark and Daniels.

14                   And, Mr. Hassett, if you see -- if you  
15       go to the first sentence it says, "On November 7th,  
16       Sunday, 1982 I drove to the Johnson talc mine from  
17       Middlebury, Vermont. I collected a suite of samples  
18       of talc ore, talc-carbonate grit, serpentine,  
19       blackwall and schist from the large mine tailings dump  
20       adjacent to the mine operation."

21                   Do you see that?

22           A.       Yes.

23           Q.       And if you go to Page 5, the Conclusion.  
24                   It says, "Asbestiform chrysotile occurs  
25       in serpentine intermingled with talc at the Johnson



1 mine."

2 Do you see that?

3 A. Yes.

4 Q. Do you recall whether this report is  
5 something that was discussed within Engelhard?

6 A. I do not recall any discussion of this  
7 report.

8 Q. Do you recall any discussions of this  
9 report with Cahill Gordon?

10 A. No.

11 Q. Do you recall any discussions of this  
12 report with the local defense counsel, Mr. Merten?

13 A. No.

14 (Pause.)

15 MR. VALE: Thank you.

16 Q. Mr. Hassett, in front of you is now  
17 what's been marked as Exhibit Hassett-10 for  
18 identification. It is an August 2nd, 2004 letter from  
19 Howard Merten to Elizabeth Cuzzone.

20 Do you see that?

21 A. Yes.

22 Q. It also has some attachments.

23 MR. DONOHUE: I should say.

24 Q. Do you recall that Elizabeth Cuzzone was  
25 that the plaintiff's lawyer in the Martin case?

1 A. Yes.

2 Q. And do you see that the letter is dated  
3 August 2nd, 2004 which is about six weeks -- almost  
4 six, seven weeks after the Interrogatories that we  
5 reviewed previously were certified; the  
6 Interrogatories at Exhibit 205?

7 A. Yes.

8 Q. And if we turn to the last paragraph of  
9 the letter Mr. Merten says, "With the body of  
10 independent and consistent evidence Engelhard is  
11 confident that a jury would find that the talc from  
12 the Johnson mine is and was asbestos-free. That said,  
13 Engelhard is willing to make some adjustment in its  
14 settlement position in light of the increased defense  
15 costs it appears it will likely face. At this point  
16 I'm not sure where you stand on a demand. Please give  
17 me a call to discuss the matters raised in this letter  
18 and the possible resolution of this matter."

19 Do you see that?

20 A. Yes.

21 Q. Do you recall that once Engelhard was  
22 presented with the fact that the plaintiffs counsel in  
23 the Martin case had found asbestos in the Johnson mine  
24 it was willing to adjust its settlement position?

25 MR. BRESS: Objection. Form.

1           A.       I don't remember this specific letter,  
2     but I do the remember we -- it did -- it tried to  
3     reach a settlement with the plaintiff in the Martin's  
4     case.

5           Q.       And is it fair to say that that attempt  
6     to seek a settlement in the Martin case came after the  
7     fact was presented that the plaintiffs expert in the  
8     Martin case purported to have found asbestos in the  
9     Johnson mine?

10           MR. BRESS: Do you understand the  
11     question?

12           A.       Well, it's the chronology of which came  
13     first, the --

14           Q.       Mm'mm.

15           A.       -- evidence or the settlement, and I --  
16     I don't really remember. I mean, you know, the  
17     correspondence suggested it but I don't remember.

18           Q.       All right. You said that in the Martin  
19     case you participated in a mediation as the corporate  
20     representative. Is that fair?

21           A.       Yes.

22           Q.       Do you recall about time-wise when that  
23     mediation was? Date?

24           A.       You know, beyond -- beyond knowing it  
25     was the Martin case so I can place it in this era, no,

1 I couldn't give you a date.

2 Q. Well, was it disclosed in the mediation  
3 that the -- the fact that the plaintiffs counsel had  
4 an expert who purported to find asbestos in the  
5 Johnson mine?

6 MR. BRESS: I'm sorry. I'm not sure I  
7 follow -- was it disclosed by the plaintiff?

8 MR. JARED PLACITELLA: Right.

9 A. Well, I didn't speak -- other than a  
10 brief introduction and good-bye, I didn't speak  
11 directly to the plaintiff or even the plaintiff's  
12 counsel in the mediation and I don't know if the  
13 information about the expert evidence -- I don't  
14 remember when it was dis -- it was known at that time  
15 if not disclosed at that time.

16 Q. Okay. So fair to say that in the  
17 mediation it was addressed the fact that -- well,  
18 scratch that.

19 Is it fair to say that in the -- in the  
20 mediation the fact that the plaintiffs lawyer had an  
21 expert who purported to find asbestos in the Johnson  
22 mine was discussed?

23 A. Well, we have my discussions with local  
24 counsel which are privileged and the discussions that  
25 plaintiff -- the plaintiffs counsel had with Mr.

1 Merten which I wasn't there for.

2 Q. Right. Did Mr. Merten ever tell you  
3 about -- scratch that.

4 MR. JARED PLACITELLA: That's why I said  
5 scratch that.

6 MR. DONOHUE: That was good. Save a  
7 page of transcript.

8 Q. Do you recall how that mediation  
9 resolved?

10 A. The mediation did not resolve the case.  
11 I'm not sure how much more I can say  
12 without getting into some privilege issues.

13 Q. So do you recall the circumstances in  
14 which the case resolved if it was not at mediation?

15 MR. BRESS: You can answer that I think.  
16 Just don't reveal privileged communications in the  
17 course of doing so.

18 A. Well, ultimately the case was resolved  
19 by settlement.

20 Q. I'm going to turn back to Exhibit  
21 Hassett-10 for a minute; the one in front of you.

22 The first sentence of the last paragraph  
23 on Page 2 has an opening clause and says, "Engelhard  
24 is confident that any jury would find that talc from  
25 the Johnson mine is and was asbestos-free."

1 Do you see that?

2 A. Yes.

3 Q. Did Engelhard expect that it would not  
4 be able to prevail on Summary Judgment on the question  
5 of whether Emtal talc contained asbestos?

6 MR. BRESS: So there I think you are  
7 asking -- asking for work product and mental  
8 impressions and very likely attorney-client  
9 communications so I think you have to explain to us  
10 how -- how you think he could answer that without  
11 revealing that information.

12 MR. JARED PLACITELLA: Sure.

13 Q. In communicating that sentence to Miss  
14 Cuzzzone do you know if that's what Mr. Howard Merten  
15 intended?

16 MR. BRESS: Intended what?

17 Q. What -- do you know what that sentence  
18 means?

19 MR. BRESS: Objection to form.

20 MR. DONOHUE: Same.

21 A. Yeah. I -- I don't really know the  
22 specifics of Howard's intention in this letter.

23 Q. Okay.

24 A. I don't -- I don't remember -- remember  
25 the letter.

1 Q. Do you recall what the terms were of the  
2 Martin settlement?

3 A. I believe Engelhard ended up paying  
4 approximately 400,000 but I -- that's not a rock solid  
5 number.

6 Q. And to your knowledge had Engelhard ever  
7 paid that much money to settle a talc case either a  
8 tire worker case or other Emtal talc case before?

9 A. To my knowledge, no.

10 Q. After the Martin settlement was reached  
11 until the time you left the company are you aware of  
12 any other instance where Engelhard agreed to settle for  
13 \$400,000 in any talc case; tire worker or otherwise?

14 A. Well, if you -- I'm not aware of any  
15 settlements and I'm not actually aware of any cases  
16 after Martin.

17 (Pause.)

18 Q. Who had to approve the Martin settlement  
19 within Engelhard?

20 A. Arthur Dornbusch.

21 Q. Would -- to your knowledge was that  
22 settlement ever reported outside of the Legal  
23 Department?

24 MR. BRESS: Objection to form.

25 A. Well, I don't know. Reported is a --

1 certainly other people in the company would have been  
2 aware of the payment. Beyond that I don't -- I don't  
3 know of any special reporting.

4 Q. Who within Engelhard would have been  
5 aware of the payment?

6 A. I mean, I don't -- I don't know the  
7 details. I -- you know, somebody had to cut the  
8 checks, somebody had to -- had to log it in as a debit  
9 or credit in the books.

10 It's just a -- routine stuff.

11 Q. Do you know whether the Martin  
12 settlement was known to the Engelhard Board of  
13 Directors?

14 A. I do not.

15 Q. I'm going to show you what I've marked  
16 as Exhibit 7 for identification.

17 (Pause.)

18 MR. JARED PLACITELLA: Tony?

19 For the record Exhibit 7 is a May 9th,  
20 2006 cover letter from Elizabeth Cuzzone to Howard  
21 Merten enclosing a settlement release in the Martin  
22 case.

23 Q. Have you ever seen this cover letter and  
24 release before?

25 A. I don't remember.



1 Q. And if you turn to the first page of the  
2 release it says that -- you were right. It says that  
3 the Martin case was resolved for \$400,000.

4 Do you see that?

5 A. Yup.

6 Q. I want to direct your attention -- well,  
7 first, I want to direct your attention to the --  
8 begin -- the last sentence beginning on the second  
9 page of the release.

10 (Pause.)

11 MR. JARED PLACITELLA: And I'm sorry.  
12 For the record this is Hassett-7 if I didn't say that.

13 Q. The last sentence on this -- the second  
14 page of the release continuing onto the third page  
15 reads, "Finally, each of the parties agrees that he,  
16 she or it will not disclose any of the facts related  
17 to -- to the lawsuit to anyone including without  
18 limitation the information contained in any discovery  
19 documents and the facts related to the settlement  
20 discussions surrounding this agreement."

21 Do you see that?

22 A. Yes.

23 Q. Why did Engelhard insist on that clause  
24 in the agreement?

25 MR. BRESS: So --

1 MR. DONOHUE: Objection to form.

2 MR. BRESS: Yeah. I have to object to  
3 form but I also think you're now asking for work  
4 product and mental impressions since you're asking  
5 this of an in-house lawyer so I think the question  
6 needs to be rephrased. Maybe you can rephrase it?

7 Q. Well, let's start this way.

8 Did Engelhard insist that this clause be  
9 in the settlement agreement?

10 A. I don't remember the negotiation around  
11 inclusion of this clause at all or -- or the  
12 communication that led to it.

13 Q. Under this agreement Elizabeth Cuzzzone  
14 is the plaintiffs lawyer, was -- her client was paid  
15 \$400,000 on the condition that she did not tell anyone  
16 what Dr. Glassley had found. True?

17 MR. BRESS: Objection.

18 A. She was paid 400 --

19 MR. BRESS: Objection to the form.

20 THE WITNESS: Sorry.

21 MR. DONOHUE: Join.

22 THE WITNESS: Should -- should I answer?

23 MR. DONOHUE: Read it back, please.

24 (The following question is read back by  
25 the reporter:

1 "Question: Under this agreement  
2 Elizabeth Cuzzone is the plaintiffs lawyer, was -- her  
3 client was paid \$400,000 on the condition that she did  
4 not tell anyone what Dr. Glassley had found. True?")

5 MR. DONOHUE: Objection to form.

6 MR. JARED PLACITELLA: Let me rephrase  
7 that so it's clear.

8 Q. Miss Martin, Elizabeth Cuzzone's client,  
9 was paid \$400,000 by Engelhard on the condition that  
10 Miss Martin or Elizabeth Cuzzone not tell anyone about  
11 the fact that Dr. Glassley had found asbestos in the  
12 Johnson mine.

13 MR. DONOHUE: Object to form.

14 Q. Isn't that true?

15 MR. BRESS: Objection to form but I also  
16 think, Jared -- maybe there's a way to rephrase this  
17 but I think you're asking him now to interpret as a  
18 lawyer the settlement agreement.

19 Q. Mr. Hassett?

20 MR. BRESS: I think you're asking him to  
21 give you his mental impressions.

22 Q. This is a contract that Engelhard  
23 entered into with Miss Martin, correct?

24 A. Yes.

25 Q. And you worked in the Engelhard Legal

1 Department during the time this contract was executed.

2 Is that fair?

3 A. Yes.

4 Q. Can you tell me what are the terms of  
5 this contract as it pertains to the final sentence on  
6 Page 2 going on to Page 3 and how that relates to the  
7 payment that Miss Cuzzone -- that Miss Martin  
8 received?

9 A. Well --

10 MR. DONOHUE: You can...

11 A. -- that clause and all the other  
12 consideration mentioned on the side of Miss Martin in  
13 the agreement were in exchange for the payment of  
14 400,000.

15 Q. Right. And that's fair.

16 So part of the consideration for the  
17 400,000 was that Miss Martin or Miss Cuzzone could not  
18 tell anybody about the fact that Dr. Glassley had  
19 found asbestos in the Johnson mine?

20 MR. DONOHUE: Object to the form of the  
21 question.

22 MR. BRESS: Yeah. Object as well. And  
23 I think again, Jared, you're now asking him to provide  
24 mental impressions and to interpret the agreement as a  
25 former lawyer of the company.

1 MR. JARED PLACITELLA: I want to know  
2 his understanding.

3 Q. So you -- could you please answer that  
4 question?

5 MR. BRESS: I'm sorry. You want -- but,  
6 again, you're now -- you're now asking him to provide  
7 you with his understanding from the time of whether a  
8 particular clause covered something.

9 I don't understand how this isn't asking  
10 for his mental impressions as a lawyer.

11 Q. Well, that clause precluded Miss Martin  
12 from telling anyone about the fact that Dr. Glassley  
13 had found asbestos in the Johnson mine. Is that true?

14 MR. BRESS: Again, I -- I think you're  
15 asking him to provide his mental impressions as a  
16 lawyer. Maybe the first question is whether he would  
17 even know the answer to your question.

18 Q. I would like my answer, please.

19 MR. BRESS: Well, I need --

20 MR. JARED PLACITELLA: If you want to  
21 instruct him not to answer that question you can  
22 instruct him not to answer that question.

23 I'm asking him what is the effect of a  
24 clause in the contract that a company that he used to  
25 work for executed with Miss Martin.

1 MR. BRESS: Right. But you're asking  
2 him as a lawyer from the company to provide what is  
3 essentially a mental impression about --

4 MR. JARED PLACITELLA: No, it's --

5 MR. BRESS: -- in terms of an agreement.

6 MR. JARED PLACITELLA: I'm not going to  
7 get that question.

8 MR. BRESS: So maybe there's a -- a way,  
9 Jared, to rephrase this or you can explain how you're  
10 not asking for the mental impressions but...

11 Q. Engelhard would have the right to  
12 enforce the terms of this contract. Is that correct,  
13 Mr. Hassett?

14 MR. DONOHUE: Object to the form. You  
15 could answer.

16 MR. BRESS: Object to the form as well.

17 A. Yes.

18 Q. Right. And enforcing -- if Miss Cuzzone  
19 told anyone about the fact that Dr. Glassley had found  
20 asbestos in the Johnson mine would that be a violation  
21 of this contract?

22 MR. BRESS: Now, I --

23 MR. DONOHUE: Object --

24 MR. BRESS: -- think you're asking him  
25 again for a legal opinion on the meaning of this

1 contract that draws on his mental impressions and work  
2 product as a former Engelhard lawyer.

3 A. I also -- wasn't in the mine. It was in  
4 the tailings which is some issue as to the validity of  
5 the sample that creates a whole different  
6 concentration but I think that's --

7 Q. So Dr. Glassley didn't even find  
8 asbestos in the mine and Engelhard was willing to  
9 pay --

10 A. The stuff --

11 Q. -- Miss Cuzzzone --

12 A. -- I read -- the stuff --

13 Q. -- \$400,000?

14 A. -- I read said he --

15 MR. DONOHUE: Whoa, whoa, whoa.

16 A. -- said he found it --

17 MR. DONOHUE: Two -- two people --

18 A. -- in the tailings.

19 MR. DONOHUE: -- talking at the same  
20 time.

21 MR. JARED PLACITELLA: Sorry.

22 A. This -- the material --

23 MR. DONOHUE: Wait. Wait.

24 MR. JARED PLACITELLA: I'll withdraw my  
25 question. I'll withdraw my question.

1 I apologize. I got my Italian up.

2 THE WITNESS: Well, we're -- we both  
3 have had a -- everybody has had kind of a long day  
4 here.

5 Q. So I just want the answer to this  
6 question.

7 Did Miss Cuzzone told anyone about the  
8 fact that Dr. Glassley had purported to find asbestos  
9 in the Johnson mine would that be a violation of this  
10 settlement agreement?

11 MR. BRESS: Jared, again, I don't -- I  
12 think you need to explain how you're not asking for  
13 his mental impressions as a lawyer here with this  
14 question as phrased.

15 MR. JARED PLACITELLA: If you want to  
16 the instruct him not to answer, then you're going to  
17 instruct him not to answer.

18 I like my question as it's phrased.

19 MR. BRESS: Well, you haven't explained  
20 how it's not --

21 MR. JARED PLACITELLA: I don't need to  
22 explain it so --

23 MR. BRESS: But I've asked for the  
24 clarification to help --

25 MR. JARED PLACITELLA: No. Then no.



1 Answer --

2 MR. BRESS: -- in assessing the  
3 instruction not to answer.

4 MR. JARED PLACITELLA: You have my  
5 question. You make your decision whether you're going  
6 to instruct him not to answer.

7 MR. BRESS: Yeah. You left me no choice  
8 but to instruct him not to answer.

9 MR. JARED PLACITELLA: That's fine.

10 BY MR. JARED PLACITELLA:

11 Q. But for the instruction not to answer  
12 could you answer that question, Mr. Hassett?

13 A. Well, I think the --

14 Q. It's a yes or a no.

15 MR. BRESS: Or -- or you don't know.  
16 There are other answers one can give. You should give  
17 the correct one.

18 A. I -- I can -- I could answer that  
19 question.

20 Q. During your experience in the Engelhard  
21 in-house Legal Department had you ever seen a similar  
22 clause to the sentence that's in the end of Page 2 and  
23 into Page 3 in the context of an Emtal talc case?

24 A. I don't recall any others.

25 Q. And do you know when Miss Martin entered

1 into this settlement agreement do you know whether she  
2 even had the depositions from the Westfall case marked  
3 as Exhibits 3 and 4 that we discussed today?

4 MR. BRESS: Objection to form.

5 A. I -- I -- if I understood the question I  
6 do not know what Mrs. -- Mrs. Martin said or her  
7 counsel.

8 Q. Okay. Besides this case, the Martin  
9 case, what is the most amount of money that you know  
10 of that Engelhard paid to settle an Emtal talc case?

11 A. I don't...

12 I don't -- I don't know the answer to  
13 that.

14 Q. We saw today in Exhibit Hassett-5 which  
15 was the correspondence between Michael Sullivan of the  
16 Cahill firm and SherryLynn of the Bevin firm in the  
17 context of the tire worker cases --

18 A. Yes.

19 Q. -- that those cases settled generally  
20 for about a thousand dollars on average apiece. Is  
21 that fair?

22 A. I saw that number in that  
23 correspondence.

24 Q. And that would be the Martin -- the  
25 settlement in the Martin case was 400 times more than

1 the settlements discussed in -- in Exhibit

2 Hassett-5 --

3 MR. DONOHUE: Object to the form.

4 Q. -- true?

5 MR. BRESS: Object to the form.

6 A. You're asking me if 400,000 equals 400  
7 times 1,000?

8 Q. Yes.

9 A. I believe that's correct.

10 Q. Okay.

11 MR. DONOHUE: Good job.

12 MR. JARED PLACITELLA: You know what?

13 Do you mind -- let's take a short break. Thanks.

14 THE VIDEOGRAPHER: The time is 4:10 p.m.

15 We are off the record.

16 (Recess taken at 4:10 p.m.)

17 THE VIDEOGRAPHER: The time is 4:33 p.m.

18 On the record.

19 (Exhibit Hassett-1A marked for

20 identification.)

21 BY MR. JARED PLACITELLA:

22 Q. All right. Mr. Hassett, I'm showing you  
23 what I've marked as Exhibit Hassett-1A for  
24 identification.

25 A. Okay.

1 Q. You don't have it --

2 A. It's new.

3 Q. Yup.

4 A. Okay.

5 Q. I got one copy so we may have to  
6 share but...

7 MR. BRESS: Can you publish it or maybe  
8 you don't have that many questions?

9 MR. JARED PLACITELLA: Yeah.

10 THE WITNESS: Have to share.

11 MR. DONOHUE: Okay.

12 Q. In front of you is what I marked as  
13 Exhibit Hassett-1A for identification.

14 MR. PRESS: Okay.

15 A. Okay.

16 Q. And it looks like a 1991 Engelhard  
17 docket retention policy. Have you ever seen this  
18 document before?

19 A. Yes.

20 Q. Okay. And did you see it in preparation  
21 for today's deposition?

22 A. Possibly a different edition of the very  
23 similar document. Possibly exactly the same.

24 Q. Now, this retention policy is dated  
25 1991.

1 Are you aware of any other earlier  
2 versions of an Engelhard document retention policy.

3 A. I can't remember when the updates  
4 occurred. The policy existed before '91.

5 Q. Okay. Do you remember when the policy  
6 was initially put in place?

7 A. I do not.

8 Q. Okay. Can you turn to Page 19 I believe  
9 it is.

10 And I'm correct that should be the  
11 litigation documents. Is that correct?

12 MR. BRESS: I need to see the document  
13 real quick so can I...

14 A. Yeah. I -- I'm not getting -- maybe I  
15 went to the wrong page. I'm not picking up the  
16 litigation stuff.

17 MR. DONOHUE: What --

18 MR. BRESS: You're talking about --

19 MR. DONOHUE: -- are we looking at?

20 MR. BRESS: -- Page 18, Jared?

21 MR. JARED PLACITELLA: I think it's Page  
22 19 if I -- but I could have just totally forgot.

23 MR. BRESS: This?

24 THE WITNESS: Yeah.

25 MR. JARED PLACITELLA: Yeah. Legal

1 records. Page 18. Thank you. 18.

2 THE WITNESS: All right.

3 MR. DONOHUE: Good.

4 Q. Do you see where it says under Lawsuit/  
5 Claims?

6 A. Yup.

7 Q. It says "AS plus 3." Do you know what  
8 that means?

9 A. I don't remember.

10 Q. And then it says the exception is P --  
11 oh, "precedent" and it says P. Do you see that?

12 A. Yes.

13 Q. I'm assuming P means permanent? Is that  
14 your understanding?

15 A. I don't really remember it. There's a  
16 code in here somewhere if you want me to refresh my  
17 recollection, fine.

18 Q. I was more interested, what's precedent  
19 mean?

20 A. I don't know.

21 Q. Do you know who would know what -- what  
22 lawsuit/claims files were precedent?

23 A. I -- I don't -- I do not know. I don't  
24 remember this.

25 Q. Do you know who I could ask who would

1 know?

2 A. Well, no. I mean, not anybody who's  
3 still at the company. I don't know who's left so...

4 Q. I believe you said Al McWilliams had  
5 knowledge about the document retention policies. Is  
6 that fair?

7 A. Right.

8 Q. Do you recall anybody else either with  
9 the company or used to be employed by the company who  
10 would have knowledge of the document retention policy?

11 A. No.

12 MR. JARED PLACITELLA: That's all the  
13 questions I have for now. I'll pass the witness.

14 MR. VALE: No questions.

15 MR. BRESS: Anybody on the phone?

16 MR. TUNIS: Nothing for Halket.

17 MR. PAVLICK: Nothing for Dornbusch.

18 MR. BRESS: Okay. I think we're  
19 concluded.

20 MR. JARED PLACITELLA: All right. Thank  
21 you very much --

22 MR. DONOHUE: Thank you all.

23 MR. JARED PLACITELLA: -- Mr. Hassett.

24 THE VIDEOGRAPHER: This concludes the  
25 deposition of Michael Hassett.

1                   The time is 4:38 p.m. We're off the  
2    record.

3                   (Reporter retains all exhibits except  
4    Exhibit 7.)

5                   (4:38 p.m.)

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1 CERTIFICATE OF OFFICER

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4

5 I, PATRICIA J. RUSSONIELLO, a  
6 Certified Court Reporter and a Notary Public of the  
7 State of New Jersey, do hereby certify that prior to  
8 the commencement of the examination the witness was  
9 duly sworn by me.

10 I DO FURTHER CERTIFY that the  
11 following is a true and accurate transcript of the  
12 testimony as taken stenographically by and before me  
13 at the date, time and place aforementioned.

14 I DO FURTHER CERTIFY that I am  
15 neither a relative nor employee, nor attorney or  
16 counsel to any parties involved; that I am neither  
17 related to nor employed by any such attorney or  
18 counsel, and that I am not financially interested in  
19 the action.

20  
21 *Patricia J. Russoniello*



22  
23

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